

# **Evaluation of the Relationship between Country Programmes and Fisheries Agreements**

*Final Report*

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IN ASSOCIATION WITH

PRICEWATERHOUSECOOPERS 

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The views expressed are those of the Consultant and do not represent the official views of the Commission.



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## List of acronyms

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ACP	Africa, Caribbean and Pacific countries
CFP	Common Fisheries Policy
CSP	Country Strategy Paper
CSS	Country Support Strategy
DAC	OECD Development Assistance Committee
DG Dev	EC Directorate General for Development
DG Fish	EC Directorate General for Fisheries
DWF	Distant Waters Fleet
EC	European Commission
EDF	European Development Fund
EEZ	Exclusive Economic Zone
EP	European Parliament
EU	European Union
EuropeAid	EC Co-operation Office
FA	Fisheries Agreement
FAO	Food and Agricultural Organisation
FAO-CC	FAO Code of Conduct for Responsible Fisheries
FDHA	Fonds de Développement Halieutique
FIFG	Financial Instrument for Fisheries Guidance
IOTC	Indian Ocean Tuna Commission
I-PRSP	Interim Poverty Reduction Strategy Paper
iQSG	Inter-service Quality Support Group
LDC	Least Developed Countries
MAGP	Multi-Annual Guidance Programmes
MCS	Monitoring, Control and Surveillance
MS	EU Member State
NAO	National Authorising Officer
NGO	Non-Governmental Organisation

NIP	National Indicative Programme
NRM	Natural Resource Management
OECD	Organisation for Economic Co-operation and Development
OLAF	European Anti-Fraud Office
PRSP	Poverty Reduction Strategy Paper
RELEX	Directorate General for External Relations
RFO	Regional Fisheries Organisations
SRFC	Sub-Regional Fisheries Commission
TAC	Total Allowable Catches
ToR	Terms of Reference
UN	United Nations
UNCLOS	United Nations Convention on the Law of the Sea
VSM	Vessel Monitoring System
WTO	World Trade Organisation

# Executive summary

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## Introduction

This evaluation of the relationship between Country Programmes and Fisheries Agreements is not a standard evaluation as it aims to assess the coherence between two policy instruments and not to evaluate each of them separately. More specifically, **the objective is to assess the coherence between Fisheries Agreements and Country Programmes from the point of view of overall development.** Fisheries Agreements (FAs) and Country Programmes (CPs) are bilateral agreements that arise from two different policies and until now they have been designed, negotiated and carried out independently from each other. **Fisheries Agreements settle fishing rights for vessels from the European Union (EU) in the Exclusive Economic Zones (EEZ) of third countries;** they were designed to compensate, at a time when the European fleet was suffering from overcapacity, for the loss of access when the zones of jurisdiction of coastal states were extended to 200 miles in the mid-1970s. **Country Programmes, on the other hand, are the main development programming instruments;** they are negotiated with developing countries and provide the policy framework that guides European Commission's co-operation with these countries.

The study has been carried out in three phases: a) a desk study; b) field work, including fact-finding missions in four countries, and questionnaires sent to other FA countries; and c) a general analysis, which is presented in this report. A Steering Group, with representatives of DG Fisheries, DG Development, DG Research, DG Trade and EuropeAid, followed each stage of the evaluation process.

## Findings

**European Community's development policy increasingly focuses on the overriding aim of reducing poverty<sup>1</sup>,** which entails the gradual integration of developing countries into the world economy and a sustainable economic, social and environmental development. The emphasis is on moving away from a "project approach", in which aid resources are targeted on individual actions carried out and/or monitored with direct participation from the donors without necessarily being inserted in the frame of a national or sectoral policy, towards a "policy approach" in which policies are negotiated and monitored and resources are provided, when conditions allow, through direct contribution to the government's budget. Community aid and even the beneficiary countries' national policies reflect these trends<sup>2</sup>, while the transposition of these policies into the fisheries

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<sup>1</sup> See Section 2.1.1

<sup>2</sup> See Boxes 2-1 and 2-3.

sector stresses the contribution made by the sector to national growth as well as the need to ensure environmental sustainability<sup>3</sup>.

**Country and Regional Programmes** constitute the main programming instrument of EC assistance to developing countries and regions. From 2001, both the programming and the implementation aspects of the assistance are included on a single document, the **Country Strategy Paper (CSP)**. This document sets out general guidelines for using Community aid and is supplemented by an indicative operational programme containing specific operations and a timetable for their implementation. Typically, the CSP reflects the general objectives of the Community development policy as well as their translation into specific objectives for each country.

**Worldwide, the situation in the fisheries sector is worrying<sup>4</sup>**. Global capture fisheries production has increased very little since the early nineties, despite continuous growth in fishing capacity. Internationally, fisheries are regulated by the UN Convention on the Law of the Sea (UNCLOS) and by the FAO Code of Conduct for Responsible Fisheries (FAO-CC). **The latter stresses the need (and the obligation for countries that have signed the Convention) to co-operate in order to ensure the sustainability of fisheries**. Although Regional Fisheries Organisations<sup>5</sup> provide a basis for that co-operation, they are still, in general, politically weak and poorly funded.

The stocks situation in European waters is even worse than the world average, with the EU increasingly importing fish and fish products and sending its fleets to distant waters. **The European Union has a Common Fisheries Policy (CFP), which is the Union's instrument for the common management of European fisheries<sup>6</sup>**. However, so far the CFP, which involves significant subsidies, has failed to adjust fishing capacity to stock depletion in European fishing areas<sup>7</sup>. An important element of the external component of the CFP are **Fisheries Agreements<sup>8</sup>**. They are negotiated by DG Fish on behalf of the EC with non-EU countries to settle fishing rights for EU vessels in the Exclusive Economic Zones of those non-EU countries. They were designed to compensate for the loss of access to non-European fishing areas when the zones of jurisdiction of coastal states were extended to 200 miles in the mid-1970s. They also intend to address the problem of over-capacity of the European fleet while maintaining the employment and economic activity in the sector. Indeed, supporting the European fisheries sector has become more difficult as fish stocks in EU waters have been substantially depleted in recent years.

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<sup>3</sup> See Boxes 2-2 and 2-4.

<sup>4</sup> See Section 2.2.1

<sup>5</sup> See Section 2.2.2

<sup>6</sup> See Section 2.2.3

<sup>7</sup> The Green Paper on the Future of the Common Fisheries Policy states that "the policy has not delivered sustainable exploitation of fisheries resources", EC(2001), Vol. I, page 5. See also Section 2.2.3.1

<sup>8</sup> See Section 2.3.1

Fisheries Agreements lay down the rules governing fishing activities of EU vessels in the EEZs of third countries<sup>9</sup>. They must comply with the UNCLOS, which states specifically that FAs can only be signed to exchange “surplus stocks”, that is, the stocks corresponding to the difference between a coastal country’s targeted management objective and domestic fishing capacity. **A reliable assessment of this surplus is therefore a critical element of the compatibility of a FA with UNCLOS. When reliable assessments are not available, the precautionary principle should be applied.**

In return for access to stocks, the EC provides financial compensations<sup>10</sup>. These may be **untargeted**, that is, directly paid to the State and normally appearing as a receipt in the national budget. They can also be **targeted**; that is, they finance natural resource management (NRM) operations or development activities related to the fisheries sector. **In contrast to the current trend in development aid, where budget aid is preferred to individual project aid, the proportion of targeted compensations has increased significantly in the most recent FAs.**

Field missions and questionnaires show that **the practical conditions for implementing FAs cannot guarantee that FAs will operate against a background of sustainable fisheries**. Indeed, surplus assessments are not based on transparent and publicly debated scientific assessments, and in addition, the coastal states sign agreements with other international public or private partners and/or do not control significant illegal fishing activities<sup>11</sup>. **In consequence, coastal states are unable or unwilling to obtain and communicate an overall view of actual fishing efforts in their EEZs**. Moreover, in violation of the FAO-CC, most of the private or public stakeholders (EU Member States, coastal states and shipowners) do not comply with the obligation to produce and share the information necessary for ensuring sustainable management of resources<sup>12</sup>.

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<sup>9</sup> See Box 2-7.

<sup>10</sup> See Section 2.3.1.2

<sup>11</sup> See Section 2.3.1.1

<sup>12</sup> See Section 2.3.3

## Analysis and conclusions

Section 3 discusses the following eight evaluation questions proposed to the evaluators:

### Evaluation Questions

- |    |  |
|----|--|
| Q1 | Are the objectives of the FAs coherent with the objectives of the Country Programmes?  |
| Q2 | Are the objectives of the FAs coherent with the objectives of the national policies of the coastal countries?  |
| Q3 | Is the support to the fishery sector provided by FAs contributing to the International Development Targets (understood in its general aim of reducing poverty) while contributing to the sustainability of fishery resources?    |
| Q4 | Is the compensation made under FAs contributing to the International Development Targets (understood in its general aim of reducing poverty) while contributing to the sustainability of fishery resources?                      |
| Q5 | Was the coastal country able to provide an accurate initial assessment of surplus stocks and of its own expected fishing effort? If not, which actions were taken?   |
| Q6 | Are FA interventions promoting the contribution of fisheries to food security and food quality, giving priority to the nutritional needs of local communities dependent of fisheries, in line with the objectives of the FAO-CC? |
| Q7 | Do FAs allow both parties to meet their interests over a sufficiently long period of time in order to be sustainable?  |
| Q8 | Are FAs interventions coherent with the principle and practice of responsible fisheries?   |

These questions deal basically with: a) the extent to which FAs are coherent with Country Programmes or with national policy objectives; b) the contribution by FAs to poverty reduction; c) their contribution to the food security; d) their contribution to sustainable fisheries; and e) the sustainability of the FAs themselves. Each question is analysed individually in Section 3 and this analysis allows to draw overall conclusions presented in Section 4 as follows:

#### **C1 Fisheries agreements are not coherent with development objectives if they are not carried out in a context of sustainable fishing practices.**

In order to be coherent with the objectives of Country Programmes, Fisheries Agreements should not contribute to the depletion of marine stocks of coastal states. *This is only possible if they are carried out in areas where sustainable fishing practices are implemented by all fleets*, under the control of public institutions that are able and willing to ensure sustainable management of stocks and their environment. *Indeed, sustainable practices are only effective when applied by all players in a given area.*

**C2 Fisheries agreements are not carried out against a background of sustainable fishing practices.**

None of the Fisheries Agreements is carried out under conditions that meet the requirements of the FAO-CC. In principle, fisheries agreements are based on the concept of surplus stocks. In practice, the definition of this surplus is not based on scientific assessments of the stocks or on transparent information about the overall (EU and non-EU) fishing effort in the EEZ in question. *Fisheries Agreements are therefore generally signed by the EC with no guarantee that they will be implemented in a context of sustainable fisheries.*

**C3 Coastal States and flag countries do not show enough willingness to cooperate to provide and enforce regulatory frameworks and information management systems able to ensure sustainable fishing practices.**

There is a lack of co-operation between public actors (coastal states and flag countries) to exchange existing information and to take decisions to meet the standards required by the FAO-CC.

**C4 The institutional framework providing the necessary incentives for promoting this international co-operation for the sustainable management of marine resources is not yet in place.**

Coastal countries are currently seen as the main party responsible for sustainable management of marine resources in their respective EEZs. In practice, they do not play that role. *Not only do they lack the necessary resources, but their commitment to long-term sustainability is also weak.* RFOs are playing an increasing role in the management of marine resources but their political weight and financial means are still very weak. Also, the support provided by the EC to these institutions is still very limited<sup>13</sup>.

**C5 The way in which compensations are used show that they currently cover three dimensions very different in nature<sup>14</sup>.**

They finance: a) the access granted to the resource, b) a contribution to the cost of sustainable management of the resource, and c) development aid.

**C6 Under current conditions, FAs and FA-related activities<sup>15</sup> are not sustainable.**

FAs and their related activities are not sustainable since, in a situation of over-fishing, it is unlikely that all parties will find it worthwhile to renew them for a long period of time. Moreover, the FAs depend on the subsidies policy of the CFP, which is being called into question on both economic and environmental grounds.

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<sup>13</sup> See Analysis, Question 8.

<sup>14</sup> See Analysis Question 2.

<sup>15</sup> Such as natural resource management activities, support to small-scale fisheries and downstream activities like tuna canning.

## Recommendations

The conclusions lead to the following **recommendations**, which are intended to improve the coherence of Fisheries Agreements with Country Programmes, and are guided by two key elements: **the need to be selective** and **the need to adapt the institutional framework**. Selectivity is justified by the need for FAs to operate in areas where all public actors are committed to co-operate for the sake of a sustainable management of the resources. Adapting institutions is justified by the situation of the stocks. When a natural resource is declining, exhausted by decades of destructive exploitation by competing actors, the main challenge is to design a new realistic institutional and economic framework driving these actors to co-operate towards a sustainable management of that resource<sup>16</sup>.

### **R1 EU FAs should be more selective. They should only involve partners ready to co-operate in setting up and enforcing sustainable fishing practices.**

EU FAs cannot contribute to sustainable fisheries and therefore be coherent with development objectives if they involve partners who are not prepared to co-operate in this aim. Therefore, FAs should be signed and protocols renewed only with partners (coastal states, EU MS, shipowners) who comply with internationally approved rules, that is, those laid down in the FAO-CC, and with the specific regulations applied in the EEZ in question. Meeting these regulations requires far more transparency from all parties than is currently provided.

### **R2 The institutional framework should explicitly reflect the three main dimensions currently covered by FAs.**

The three dimensions (namely access to resources, sustainable management of marine resources and development activities) should not be mixed in the same negotiation or managed by the same institutions.

#### ***R2.1 A Fisheries Agreement should exclusively deal with the conditions under which EU vessels can access the coastal state's EEZ.***

##### **R2.1.a**

##### **Rent should be paid by shipowners to the coastal state to access resources.**

This rent should be fully financed by the shipowners, as setting aside public money to subsidise the rent increases the risk of over-fishing. Each coastal state should still be allowed to negotiate with the partners of its choice, but within a total sustainable catch agreed with the regional institution.

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<sup>16</sup> See Section 3. 8, Box 8.

### **R2.1.b**

**More responsive forms of agreements, relating compensation payments directly to market prices and actual catches, should be designed.**

Currently, flat compensation payments for access may, like allowable catches, last for long periods, regardless of conditions in nature and market prices. As a result, the legitimate compensation owed to the coastal state is underestimated and sustainability endangered.

## ***R2.2 International institutions involved in the sustainable management of marine resources should play a more important role.***

### **R2.2.a**

**The contribution to MCS<sup>17</sup> and to other aspects of resource assessment and management should be viewed as a tax, the total of which will be assessed according to the actual costs of such a management system.**

This amount should be shared between shipowners. However, since the protection of marine life can be seen as a public good, European taxpayers could finance part of the cost. Ideally, this contribution should be paid directly to regional institutions rather than to coastal countries.

### **R2.2.b**

**The EC should increase its support to international institutions involved in the sustainable management of marine resources.**

These multilateral institutions should be given the widest possible responsibilities in order to fulfil their tasks. RFOs are an important step in this direction, and the financial and technical support given to them by the EC should therefore be increased.

### **R2.2.c**

**Each FA or protocol should have a detailed technical annex explaining the scientific basis on which the surplus allocated to EU vessels has been assessed and how fishing activities will be monitored and evaluated.**

This technical annex should be part of the official text and be approved by all the parties. The implementation of FAs should be assessed regularly by independent experts and the results of these assessments made public. *Improved transparency is a prerequisite for improved resource management. To be coherent with EU development objectives, FAs should become exemplary from that point of view.*

### **R2.2.d**

**There should be more transparent and standardised catch reporting by EU DWF<sup>18</sup> vessels, so that the same information is shared simultaneously by**

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<sup>17</sup> Monitoring, control and surveillance.

<sup>18</sup> Distant water fleet.

**MS, the EC, the coastal state and the corresponding Regional Fisheries Organization.**

***R2.3 Development interventions should be carried out only in the context of a Country Programme and financed with development funds.***

**R2.3.a**

**The contribution to development programmes, in fisheries as in any other sector, should be drawn from European aid resources such as EDF<sup>19</sup> and included in the Country Programmes.**

The amounts released should depend on the needs and priorities identified in the CPs. They are, by nature, financed by the European taxpayer and should bear no relation to the terms of the FA.

**R2.3.b**

**Country and Regional Programmes should finance the design and implementation of sector-wide strategies for the fisheries sector in countries where fisheries contribute significantly to the overall wealth and/or to the livelihood of certain vulnerable groups.**

**R2.3.c**

**The impact of FAs on vulnerable groups should be assessed through the evaluations mentioned in R2.2.c.**

If any negative impact is identified, it should be addressed on a co-ordinated basis by the EC services responsible for development and fisheries.

**R3 FA-related activities<sup>20</sup> are not sustainable and should not be promoted.**

FAs do not provide reliable foundations on which local economic activities can safely be based<sup>21</sup>. Activities that are funded by the FAs or depend on compulsory local landings, such as processing and canning plants, are unsustainable. Therefore, this form of dependency should not be promoted in future, as it is not in line with development objectives.

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<sup>19</sup> European Development Fund.

<sup>20</sup> Such as natural resource management activities, support to small-scale fisheries and downstream activities like tuna canning.

<sup>21</sup> See Section 3.7.1 and Section 4 Conclusion 5.

# 1. Introduction

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Responding to the request of the Council of the European Union, an evaluation of the **Fisheries Agreements** signed by the European Commission (EC) was carried out in 1999<sup>22</sup>. The recommendations of this evaluation, as well as recent orientations taken within the Commission, have led DG Fisheries to include in the Green Paper on the Future of the Common Fisheries Policy<sup>23</sup> a chapter on the external dimension of the CFP of which the **Fisheries Agreements** are the main instrument. The main thrust of that text is that the Community should contribute to the improvement of **global governance** in fisheries related matters through the effective implementation of the international legal framework and the development of a **partnership approach** with developing countries.

Many of these developing countries have also links with the European Commission through a long-standing co-operation history. For the last few years this co-operation has been framed by the Country Programmes, which express the result of a negotiation between the EC and each of the developing countries. The programmes are therefore expected to reflect both EC development objectives and the national priorities of the partner country.

Fisheries Agreements (FAs) and Country Programmes (CPs) are bilateral agreements resulting from two policies that have been designed and are carried out independently of each other. However, according to Art. 178 of the Amsterdam Treaty on European Union (EU), policies that may affect developing countries should embrace the objectives of the EU development policy.

In that context, the Board of EuropeAid has launched the present evaluation of the relationship between the Country Programmes and the Fisheries Agreements signed with southern countries. *“The expected output of this evaluation is an assessment and a set of recommendations on how the relationship between the Country Programmes and the Fisheries Agreements has contributed and might be made to contribute better to achieving the development objectives set out in the Country Programmes”*<sup>24</sup>.

This study is therefore not a standard evaluation as it aims to assess the coherence between two policy instruments and not to evaluate each of them separately. More specifically, **the objective is to assess the coherence between Fisheries Agreements and Country Programmes from the point of view of overall development**<sup>25</sup>.

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<sup>22</sup> EC (1999), Evaluation of Fishing Agreements concluded by the European Community. Final Report, September. IFREMER/CEMARE/CEP.

<sup>23</sup> EC (2001), Green Paper on the Future of the Common Fisheries Policy. See also Section 2.2.3.1.

<sup>24</sup> Terms of reference, attached in Annex 1.

<sup>25</sup> It is worth to notice that this evaluation does not intend to evaluate the coherence between Fisheries Agreements and the EC development policy in the fisheries sector in third countries.

The study has been carried out in three phases:

- A desk study that allowed us to define a methodological approach and to analyse information available at the EC's headquarters. This phase ended in September 2001 with a report presenting the initial findings, an evaluation framework and the precise scope of the analysis to be made during the further steps;
- A second phase that involved fact-finding missions in four countries (Madagascar, Mauritania, Senegal and Seychelles) in November 2001, questionnaires sent to the delegations in the twelve FA countries that had not been visited by the team<sup>26</sup>, and further interviews in Brussels;
- A third phase to prepare the final report presenting the overall analysis and recommendations.

A Steering Group, with representatives of DG Fisheries, DG Development, DG Research, DG Trade and EuropeAid, followed each stage of the evaluation process. A workshop was set up in January 2002 so that the findings of the second phase and the structure of the report could be discussed and then submitted to the steering group.

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<sup>26</sup> Seven out of the twelve questionnaires were sent back by Delegations.

## 2. Findings

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### 2.1 Development policy and instruments

#### 2.1.1 European Community development policy

##### 2.1.1.1 Objectives

The European Community development policy is based on the principle of sustainable, equitable and participatory human and social development. Important elements underpinning this principle are the respect for human rights and fundamental freedoms, the consolidation of democracy, the rule of law and good governance. Within this frame and in accordance with the strategy adopted by the Development Assistance Committee (DAC)<sup>27</sup> and of a number of international commitments, **the main objective of the European Community development policy is poverty reduction**. This objective entails the gradual integration of developing countries into the world economy and a sustainable economic, social and environmental development.

Several documents guiding the Community's development policy<sup>28</sup> explicitly state that, whenever the institutional conditions of a country permit, **the increased recourse to sectoral support and to direct budget support should be fostered** as opposed to support through individual projects. If the conditions are not met, a gradual shift is recommended in parallel to a redirection of development aid towards capacity building and budgetary reform, so that the country becomes eligible to sectoral and budget support as soon as possible. This policy shift is being implemented in different countries by different donors and is better understood in the frame of the above-mentioned DAC strategy. **Ownership of the reforms, strong commitment to an effective policy environment and focus on pro-poor growth on the part of the developing country as well as an effective donor coordination** are presented as necessary conditions for the success of the increased financial support at programme and budget levels.

This position is reflected in the Cotonou Partnership Agreement that frames the EU co-operation with the ACP<sup>29</sup> countries and is considered the leading option of the EC. **In this perspective, the EU-ACP Agreement no longer mentions specific sectors such as**

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<sup>27</sup> "Shaping the 21st century: the contribution of Development Co-operation" (OECD, May 1996), where International Development Goals are laid down.

<sup>28</sup> Communication from the Commission to the Council and the European Parliament: The European Community's Development Policy COM(2000)212 and The European Community's Development Policy - Statement by the Council and the Commission (Nov, 2000).

<sup>29</sup> Africa, Caribbean and Pacific.

**fisheries<sup>30</sup>**, as was the case with the Lomé Convention<sup>31</sup>. It is far more generic and **frames all development actions within the main objectives of the EU Development Policy, namely poverty reduction, sustainable development and the gradual integration in world markets.**

#### 2.1.1.2 Country and regional programmes

Country and Regional Programmes constitute the main programming instrument of EC assistance to developing countries and regions. From 2001, both the programming and the implementation aspects of the assistance are managed on the basis of a single document, the Country Strategy Paper (CSP). This document sets out general guidelines for using the aid and is supplemented by an indicative operational programme containing specific operations and a timetable for their implementation. The RELEX inter-Service Quality Support Group (iQSG) monitors the consistency and quality of the programming exercise. The Delegation is in charge of preparing the draft CSP and discusses it locally with the National Authorizing Officer (NAO), Member States (MS) and other actors. Taking into account the importance of ownership for aid effectiveness, priorities and activities defined in the document are decided jointly with the government.

Typically, the CSP reflects the general objectives of the Community development policy (poverty reduction, the gradual integration into world markets and sustainable development) as well as their translation into specific objectives for each country. As the sectoral dimension is now included in the frame of the general development objectives for the country, sectors are less explicitly listed than in previous programming documents. In particular, the fisheries sector is seldom referred to in the Country Programmes<sup>32</sup> analysed. In order to ensure that the fisheries sector is properly analysed, even if it has not chosen for intervention, DG Dev has prepared a specific document addressed to the Delegations on how to take fisheries into account when designing a CSP<sup>33</sup>.

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<sup>30</sup> Yet, of importance for FAs are Article 53 which affirms the willingness of both parties to negotiate Fisheries Agreements in order *to guarantee sustainable and mutually satisfactory conditions for fishing activities* in ACP states (our italics) and Article 20 which emphasises the promotion of environmental sustainability and best practices for the preservation of the natural resource base.

<sup>31</sup> In Title III, Articles 58 to 63 the objectives and mechanisms of the EU fisheries development policy with regard to ACP countries were defined, while Articles 64 to 68 mainly deal with bilateral Fisheries Agreement policy with ACP states.

<sup>32</sup> In fact, Fisheries is not a sector of intervention in the countries under study.

<sup>33</sup> "Prise en compte de la Pêche dans le CSS/CSP, Note à l'attention de MM les Directeurs des Directions C et D et des Chefs de Délégation", DEV B4\*1(01)D/2102 (25/04/01).

**Box 2-1 - Objectives of country programmes**

<b>Country</b> <i>(information source)</i>	<b>Goals</b>	<b>Purposes</b>
<b>Angola</b> <i>(NIP 1996)</i>	Sustainable economic and social development; poverty alleviation; democracy, rule of law and human rights; and integration into the world economy.	Sustainable economic and social development with an emphasis on the private and productive sectors in the view to promote employment.
<b>Cape Verde</b> <i>(CSP 2001-07)</i>	Poverty alleviation, sustainable and equitable economic growth.	Economic development and private investment; improvement of basic infrastructure; environment and health conditions.
<b>Comoros</b> <i>(NIP 1997)</i>	Sustainable economic and social development; poverty alleviation; democracy, rule of law and human rights; and integration into the world economy.	Equitable economic growth; infrastructure and environmental protection.
<b>Gabon</b> <i>(CSP 2001-07)</i>	Economic growth and poverty reduction.	Transport and infrastructure.
<b>Gambia</b> <i>(NIP 1998)</i>	Sustainable economic and social development; poverty alleviation; democracy, rule of law and human rights; and integration into the world economy.	Equitable and balance economic growth and social development.
<b>Guinea</b> <i>(NIP 1997)</i>	Sustainable economic and social development; poverty alleviation; democracy, rule of law and human rights; and integration into the world economy.	Essential economic and social infrastructure and services development, rural development; and consolidation of democracy and the rule of law.
<b>Guinea Bissau</b> <i>(CSP 2001-07)</i>	Sustainable economic and social development; poverty alleviation; democracy, rule of law and human rights; and integration into the world economy.	Poverty alleviation, good governance and integration into the world economy.
<b>Madagascar</b> <i>(CSP 2002-07)</i>	Sustainable economic and social development; poverty alleviation; democracy, rule of law and human rights; and integration into the world economy.	Exploit its economic potential, eradicate poverty and reduce inequality while protecting the environment.
<b>Mauritania</b> <i>(CSP 2001-07)</i>	Democracy, rule of law and governance, promote sustainable economic and social development; poverty reduction.	Infrastructure, rural development, environmental protection and institutional building.
<b>Mauritius</b> <i>(CSP 2001-07)</i>	Sustainable economic and social development; poverty alleviation; democracy, rule of law and human rights; and integration into the world economy.	Poverty alleviation; environmental protection; private sector support and improving skills.

<b>Morocco</b> (CS 2002-04)	Democracy and human rights, progressive creation of a free-exchange euro-Mediterranean zone, economic and social reform and regional co-operation.	Institutional support emphasising euro-Mediterranean market relations; immigration and environment.
<b>Mozambique</b> (CSP 2001-07)	Poverty alleviation and consolidation of democracy and the improvement of human rights.	Transport, food security and agriculture and macro-economic support.
<b>Sao Tome</b> (NIP 1997)	Sustainable economic and social development; poverty alleviation; democracy, rule of law and human rights; and integration into the world economy.	Expansion of the priority sectors (agriculture, fisheries and tourism) with an emphasis on the extension of rehabilitation of basic infrastructure and improving public health.
<b>Senegal</b> (NIP 1996)	Support sustainable and equitable economic growth with an emphasis on the private sector and those sectors with a social basis.	Improving performance in public sectors (health and road infrastructure); development of private sector competitiveness and job and income-generating capacity emphasizing activities with a broader social impact (agriculture and local economy support).
<b>Seychelles</b> (NIP 1997)	Sustainable economic and social development; poverty alleviation; democracy, rule of law and human rights; and integration into the world economy.	Environmental protection and private sector support.

As for data on commitments to projects that support fisheries directly<sup>34</sup>, about 60 projects have been financed under the 7<sup>th</sup> EDF for a total of some €64 million<sup>35</sup> (Annexes 2 and 3). In each country or region, these projects represent a share of the development programme that varies between less than 1% (Angola and Guinea) and 6% (Seychelles) and 15% (Comoros). For Regional Programmes the share of fisheries projects is 4% for West Africa and 37% for the Indian Ocean. This large figure for the Indian Ocean is mainly explained by an important environmental project.

The distribution per type of project reveals a majority (66%) of them relating to 'fishing policy and administrative management', while 'fisheries development' projects represent 25% of the total. The distribution differs substantially among country projects and regional projects. In terms of value, however, **the majority of country projects are 'fisheries development' projects (65%), while the majority of regional projects are 'fishing**

<sup>34</sup> Source: File containing EDF projects in the fisheries sector provided by AidCo (May 2001), complementary file provided by DG Dev (May 2001) and European Parliament, "La Coopération entre l'Union Européenne et les pays ACP dans le secteur de la pêche au delà de l'an 2000", Document de travail, October, 1999.

<sup>35</sup> About 40% are projects financed under Regional Programmes.

**policy and administrative management' projects** (62%). When projects are classified by output, about 70% are TA projects, and this is true for regional as well as for country projects.

EU involvement in the fisheries sector is complemented by the activities of EU Member States. Accordingly, when MS are strongly involved in the sector, the EC may decide to give little direct support to fisheries projects, as in Mauritania (Annex 10). In other cases, the EC may play a coordinating role among the different donors, as in Senegal, where the EC Delegation heads the donor coordination group for fisheries (Annex 11).

### Box 2-2 - Objectives of country programmes for the fisheries sector

**Angola:** Within the focal sector of Rehabilitation/Rural development, priority has been given to artisanal fishing through support for small activities, developing the resources of the sea and inland waters (*NIP 1996*).

**Cape Verde:** It is aimed to increase the necessary coherence between development and fisheries (*CSP 2001-07*).

**Comoros:** Within the focal sector of Environment Protection, the aim is to create a marine reserve on the south-west coast and assist village fishermen's groups in the reserve to improve fisheries management and thereby reduce the pressure on the reef (*NIP 1997*).

**Gabon:** The aim is to promote the exploitation of migratory species of tuna resources as well as to benefit target groups with financial compensation with the objective of promoting a sustainable development of the fisheries sector (*CSP 2001-07*).

**Gambia:** Regional programmes, specific EC Budget lines and the Fisheries Agreement will support the governments' actions in the fisheries sectors (*NIP 1998*).

**Guinea Bissau:** The fisheries sector is supported through investments in the field of processing agricultural commodities and fishery products. In addition, it aims to increase the coherence between development and fisheries policies (*CSP 2001-07*).

**Madagascar:** Its fisheries sector is included under the rural development programme through the institutional support for the administration involved with quality control of exports fish products (*CSP 2002-07*).

**Mauritania:** Fisheries is not a focal sector but the NIP includes the possibility to support the definition of a national fisheries strategy and the remaining Stabex funds (€20 million from Stabex 92 and 94) will be used for the removal of wrecks from the port of Nouadhibou. (*CSP 2001-07*).

**Mauritius:** It is aimed to assist Fisheries Sector through successive Fisheries Agreements and other developments in the industry, agro-industry (including fishing and fish-processing), tourism and transport sectors (*CSP 2001-07*).

**Morocco:** It is aimed to support traditional fisheries and include fisheries as one of the main sectors in the Association Accord (*CS 2002-04*).

**Sao Tome's** fisheries are considered a priority sector and hence a specific objective within its country development programme (*NIP 1997*).

**Senegal's** fisheries are not considered a focal sector: in addition to the transfer by Senegal of part of the financial compensation received under the FA to achieve research for sustainable development of fisheries resources has been promoted along with, building national capacity for planning and management in the fisheries sector and support for

non-industrial fisheries and for women's groups engaged in the fish processing industry (*NIP 1996*).

**Seychelles:** A sustainable development policy has been adopted within the area of sectoral policy. It emphasizes the preservation of the existing ecosystem by means of scientific studies and the creation of special reserves, and major infrastructure projects in the water and sanitation sector to counteract the effects of modern day developments (*NIP 1997*).

### 2.1.2 Development policy in coastal states

The government of the coastal state is responsible for the design of its own development policy and for determining policy priorities. For the countries under study these policy documents take varied forms: some of the countries have explicit development policies, which can be sectoral or not: Cape Verde, Comoros, Gambia, Guinea Bissau, Madagascar, Mauritania, Senegal and Seychelles. While on the other hand, some countries have prepared or are preparing Poverty Reduction Strategies: Mauritania and Mozambique have a Poverty Reduction Strategy Paper (PRSP) and Guinea, Guinea-Bissau, Madagascar, Sao Tome e Principe and Senegal have an Interim Poverty Reduction Strategy Paper (I-PRSP).

#### Box 2-3 - Objectives of national development policy

**Angola:** Establishment of lasting peace; rational and transparent allocation of all national earnings; reduction of military expenditure and reallocation in accordance with the requirements of the peace process –demobilization and reconstruction. Development of economic, physical and human resources with a focus on productive sectors diversification; and restoration and conservation of the environment (*NIP 1996*).

**Cape Verde:** Support entrepreneurial capacity, competitiveness and economic growth; good governance; social development with a focus on education; and support basic infrastructures (*I-PRSP 2002*).

**Gabon:** Promote sustainable growth; increase access to basic public services (education and health); sustainable environment and good governance (*quoted in CSP 2001-07*).

**Gambia:** Poverty alleviation; accelerating economic growth and income redistribution; enhancing social service delivery, human resource development and participatory government. All these aims to be implemented alongside macro-economic reforms for diversified growth of national income (*I-PRSP 2000*).

**Guinea:** Macroeconomic stability; bolstering the private sector by enhancing the institutional and regulatory framework for business and further developing basic infrastructure; upgrading basic social services (education, health, and water supply in particular); promoting rural development; achieving decentralization and delegation of authority in the management of public services; and protecting vulnerable and disadvantaged population groups (*I-PRSP 2000*).

**Guinea Bissau:** Sustainable economic growth; increase access to essential social goods; poverty alleviation and good governance promotion (*I-PRSP 2000*).

**Madagascar:** Pro-poor economic growth and investment; development of the essential services and targeting of the most vulnerable; and institutional reform and governance (*quoted in CSP 2002-07*).

**Mauritania:** Acceleration of economic growth; developing the growth potential and productivity of the poor; developing human resources and access to essential social infrastructures; and promoting institutional development, good governance and civil participation. In addition promote urban development, education, health and water supply (*PRSP 2001*).

**Mauritius:** Economic growth and poverty alleviation (*quoted in CSP 2001-07*).

**Morocco:** Economic development, governance, regional integration, poverty alleviation and improvement of social services (*quoted in CS 2002-04*).

**Mozambique:** Poverty alleviation, sustainable growth, regional economic development and good governance and the rule of law (*quoted in CSP 2001-07*).

**Sao Tome:** Poverty alleviation by improving infrastructure and access to education and health facilities as well as strengthening basic institutions; increase access to productive assets, inputs and financial resources; encourage income generating activities and promote employment creation (*I-PRSP 2000*).

**Senegal:** Sustainable management of natural resources, good governance, increased mobilisation of domestic and foreign financial flows.

**Seychelles:** Poverty alleviation and support to the private sector in national development while limiting the public sector.

The objectives as well as the priorities of these policies are diverse, except when a PRSP is under preparation since in that case the main objective is to reduce poverty. Typically, a PRSP process also seeks to strengthen the country's ownership of poverty reduction strategies, broaden the representation of civil society, improve coordination among development partners and focus resources of the international community on achieving results in reducing poverty. The fisheries sector, which includes small-scale and industrial fisheries, institutional capacity, natural resources management (NRM), etc., may or may not be part of the priorities of the national development policy.

#### Box 2-4 - National development policy for the fisheries sector

**Cape Verde's** fisheries sector is considered a priority within the National Poverty Reduction Programme due to its potential to create jobs and generate foreign exchange, two of the national economic' strategic goals (*quoted in CSP 2001-07*).

**Gabon's** fisheries sector is part of the agriculture sector within the mid-term strategy of supporting the private sector. Agriculture exports shall favour the transformation of local and renewal resources, hence the promotion of target actions for the fisheries sector (*quoted in CSP 2001-07*).

**Gambia's** fisheries sector is considered to be as an income-generating activity (*I-PRSP 2000*).

**Guinea** aims to maximize the economic benefits of the rational use of fishery and aquaculture resources and increase fish-farming production as part of the effort to improve food and food security as well as raise the income of rural inhabitants. In addition, it aims to increase the income of fishermen and enhance job creation (*I-PRSP 2000*).

**Guinea Bissau** decided to focus its efforts on broader, diversified rural development, aiming at developing and at improving peasant incomes. As regards fisheries, it entails publishing the Fisheries Law in October 2000 (*I-PRSP 2000*).

**Madagascar's** fisheries sector is in place with the objective of: 1) improving the economic performance benefiting the poor because of its high pro-poor growth potential, 2) increasing and promoting agricultural production by optimum use and sustainable management of resources and infrastructures and 3) satisfying the local needs in animal proteins by contributing to the increase in foreign exchange earnings and the increase in the fisher's revenues (*quoted in CSP 2002-07*).

**Mauritania's** strategy is to optimise the economic rent derived from the sector and promote the consumption of fish as a low cost protein. More specifically, regarding industrial fishing, the long-term strategy is to encourage foreign direct investment to ensure local processing of fisheries products. In addition, the Government considers small-scale and coastal fisheries as a top priority due to its role in job creation, food security and as a potential source of foreign exchange (*PRSP 2001*).

**Morocco** has a five-year plan for the rational use of its resources including fisheries (*quoted in CS 2002-04*).

**Mozambique's** fisheries sector is included as a complementary activity because it contributes to income generation and job opportunities. Within this objective the government particularly aims to support traditional fisheries, large-scale national producers, aquaculture, training of the labour force and protection of maritime borders and inspection of activities at sea, and research and extension activities (*PRSP 2001-05*).

**Sao Tome's** fisheries sector is included in the strategy of building an environmental management capacity within the objective of income generation and sustained growth because the viability of small-scale coastal fisheries is sensitive to over-fishing and the prospective development of offshore oil resources could threaten the tourism potential of the islands and would affect fisheries resources through risks of marine oil pollution (*I-PRSP 2000*).

**Senegal's** fisheries sector is included in the goal of sustainable management of natural resources as well as in the goal of supporting the agricultural sector. In this sense the strategic objectives are: ensuring the sustainable management of the fisheries resources, ensuring domestic markets requirements, strengthening and modernising small-scale fisheries, increasing the value added of fish related products, setting up a sustainable financing system and strengthening both the regional and international co-operation.

**Seychelles** has adopted a policy of sustainable development, which is closely related to fisheries.

## 2.2 The Fisheries Sector

### 2.2.1 World situation and international legal framework

As recorded by the UN Food and Agriculture Organization (FAO) in 2000, global capture fisheries production increased from 18 million tonnes in 1950 to 125.2 million tonnes in 1999, of which marine capture fisheries accounted for 84.1 million tonnes. At the same time, in recent years, global diminishing returns have been observed since the rate of catch increase fell to almost zero in the 1990s.

At present, it is estimated that around 47% to 50% of marine fish stocks are fully exploited, with another 15% to 18% overexploited. Nine to 10% of stocks are depleted or recovering from depletion (FAO, 2000). To cope with this problem, assessments of single-species stocks have been overtaken by broader ecosystem-based analysis due to the existence of complex inter-relations between species (e.g. the rise in cephalopods stocks has coincided with a decline in demersal species). A regional approach to migratory species in particular has also been developed (see the description of the Regional Fisheries Organizations below). Demographic trends, however, indicate increasing pressure on the resource as more people seek to earn their livelihoods from fisheries and as global demand rises.

Marine capture fisheries can be broadly divided into two categories: coastal or in-shore fisheries, which are most often artisanal in nature, and offshore fishing activities, which are largely commercial, requiring mechanised ocean-going fleets for their exploitation.

International agreements, for instance the UN Convention on the Law of the Sea (UNCLOS) and the FAO Code of Conduct for Responsible Fisheries (FAO-CC), require all fishing parties to respect the sustainable exploitation of resources. The UNCLOS, in force since 1994 with 137 signatory countries, sets out the general legal framework on fisheries at a global level, Exclusive Economic Zones (EEZ) regulations, the protection and preservation of the marine environment, international navigation and the participation of developing states in activities in these areas. It is an agreement binding the signatories vis-à-vis the International Tribunal of the Law of the Sea that rules on international jurisprudence concerning fisheries-related issues. The UN Agreement on Straddling Fish Stocks and Highly Migratory Fish Stocks (1995) adds to the UNCLOS an undertaking on the part of the coastal countries to ensure long-term conservation and the sustainable use of the fish stocks listed, introducing the precautionary principle and the setting of rules on the requirements of developing states (Article 24).

The FAO-CC (1995) calls for a strong commitment to sustainable resource management covering all aspects of fisheries. Box 2-5 presents its main characteristics.

**Box 2-5 - FAO code of conduct for responsible fisheries**

**Political**

- Non-mandatory but with compulsory elements, such as the UN Law of the Sea and the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on High Seas;
- Committed to provide assistance for Code implementation.

**Institutional**

- Help developing countries to follow the Code of Conduct;
- States, NGOs, international organisations to promote understanding and acceptance of the Code;
- Assistance for regional co-operation, decision-making and consultation;
- Control of flagged vessels and peaceful resolution of disputes to be promoted.

**Economic**

- Trade to be carried out in accordance with the WTO Agreement;
- Use aquaculture to promote income diversification;
- Multiple uses of catch areas and coastal zones to be ensured.

**Human Resources**

- Decisions to be based on both research and traditional knowledge. State promotes training for responsible fishing;
- Protect fish workers' rights;
- Facilities and equipment to be safe for healthy, fair work.

**Sustainable resource management**

- Right to fish carries the obligation of responsibility;
- Precautionary principle is applied;
- Guidelines for protection of biodiversity and prevention of over-fishing;
- Responsibility for future of stock promoted;
- Conservation of species and habitats to be promoted.

## 2.2.2 Regional fisheries organisations<sup>36</sup>

### 2.2.2.1 Regional resource management

Regional fisheries organisations (RFO) provide a legal framework for international co-operation in the area of regional resource management. They provide a forum, where representatives of the states meet to establish arrangements for managing fish stocks using best scientific data available. This form of co-operation seems particularly important given the mobile nature of marine resources and their current over-exploitation. The scope of the existing RFOs is, however, very varied and with different levels of management power, autonomy and geographical coverage (Box 2-6).

#### Box 2-6 - Nature of existing regional fisheries organisations<sup>37</sup>

The range of RFOs is very varied. Some are set up under the FAO and others independently of that organisation. A number are purely consultative and have no administrative organisation of their own (e.g. Fishery Committee for the Eastern Central Atlantic, CECAF) while others have management powers and autonomous structures and budgets (e.g. the Indian Ocean Tuna Commission, IOTC).

Some deal with all biological resources in the area for which they are responsible (e.g. Northwest Atlantic Fisheries Organisation, NAFO). Others focus on a stock or group of stocks (e.g. International Commission for the Conservation of Atlantic Tunas, ICCAT). Their geographical area of competence may be limited to the high seas or include the high seas and the EEZs of coastal states on account of the biological unity of the stocks. Some organisations such as the International Baltic Sea Fishery Commission (IBSFC), on the other hand, cover only zones coming under the jurisdiction of coastal states.

Some organisations directly establish management measures (e.g. IOTC, NAFO, ICCAT), other are advisory bodies providing members with scientific and management advice (CECAF) and others are only scientific bodies providing information. In most cases, however, the responsibility for data provision and the enforcement of the decisions taken by the regional bodies lie with the flag countries<sup>38</sup>.

<sup>36</sup> This section is largely based on the Commission Communication to the Council and the European Parliament on the Community participation in Regional Fisheries Organisations (RFOs), COM (1999) 613 final, 08.12.1999.

<sup>37</sup> Source: [www.fao.org/fi/body/rfb](http://www.fao.org/fi/body/rfb).

<sup>38</sup> A number of international institutions, including UNCLOS and the FAO Code of Conduct, place an obligation on all the contracting and non-contracting parties to the RFOs to provide data on their catches and to collaborate in their management.

RFOs are responsible for resource management and conservation, inspection and surveillance, the monitoring of the balance between the proper level of fish stocks and opportunities for their rational exploitation. By widening the scope of the measures they apply the **RFOs can impose technical requirements on the contracting states, such as minimum size of catchable fish and/or mesh sizes, the establishment of total allowable catches (TAC) and their share-out between the contracting parties.**

For instance, the Sub-Regional Fisheries Commission (SRFC-West Africa) has collected all relevant fisheries legislation from the countries in the region as the first step towards enhancing coordination. Moreover, member countries of the SRFC agreed that no Fisheries Agreement should be signed for more than three years to allow for the adjustment of fishing possibilities if necessary. A more detailed example is given in Annex 4 on the RFOs in the Indian Ocean.

The structure of the RFOs clearly reflects their tasks. Most often, they comprise:

- An executive body responsible mainly for adopting measures for the conservation and management of stocks;
- A scientific body responsible for providing scientific advice and recommendations for the preparation and adoption of conservation measures;
- A secretariat to take care of the administrative side of the organisation;
- Subsidiary bodies responsible for undertaking preparatory work (finance committee, implementing committee, statistical committee, etc.).

#### 2.2.2.2 *RFOs and the European Community*

The Commission represents the European Community at RFO meetings. It is a contracting party to 10 and an observer to 2 others out of 35 existing RFOs. **In 1999, €3.7 million were contributed to the RFOs<sup>39</sup>.**

There are five types of obligations arising from the EC's participation in the RFOs:

- Representing the interests of the Community,
- Making a financial contribution to the budget and work of the RFOs,
- Participating in the work of the RFOs,
- Transposing adopted measures into EU legal frame,
- Implementing the conservation and management measures adopted.

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<sup>39</sup> For example, for the year 2001, the EC contributed with \$322,791 (30%) to the budget of the IOTC. Members' contributions are calculated based on their GNP and catches (see [www.seychelles.net/iotc/English/BasicInfo/Econtributions.html](http://www.seychelles.net/iotc/English/BasicInfo/Econtributions.html)).

### 2.2.2.3 *Co-operation between the Commission and member states*

**For a EU Member State (MS), one of the main obligations resulting from the participation in RFOs is sharing out the tasks of collecting and handling data.** Indeed, each RFO member is required to forward a number of reports on the activities of its fleet, such as data on catches and fishing effort, lists of vessels authorized to fish and other statistical and sampling data.

In practice, MS are responsible for collecting data from the vessels and for sending these to the European Commission which in turns forwards the data to the RFOs. Therefore, the Commission acts as an intermediary between the RFO and the MS on the grounds that **the EC represents the Community vis-à-vis the RFO and it is the sole party responsible for this obligation.** Moreover, if the MS were able to forward information directly to the RFOs, the EC would still be responsible for ensuring the quality and quantity of data.

**Member States also have the primary responsibility for applying control measures and inspection and monitoring under their own enforcement powers as flag states.** However, no information about law enforcement is presented in the Commission's communication ruling the participation in RFOs<sup>40</sup>.

## 2.2.3 Importance for the EU

### 2.2.3.1 *Fisheries sector and the CFP*

Fisheries are an important **economic activity** for the European Union. While fisheries and aquaculture account for around €20 billion or 0.3% of GDP only (Green Paper, Vol. II, page 35), the sector has considerable significance in terms of trade, regional employment and, through its distant water activities, external relations. The largest fishing nations within the EU in terms of their fishing capacity are Spain, Italy, France and the UK although in terms of employment, Spain, Italy and Portugal have the highest number of people dependent on the fisheries sector (Annex 5). Indeed, some 260,000 direct jobs depend on the sector within the Union.

The **European market** is one of the largest in the world. The EU produces some 8 million tonnes of fisheries products annually. However, as the gap between demand and domestic supply has widened in recent years, the EU has to import increasing amounts of fish products, particularly from less developed countries (LDCs). The average per capita consumption of fish and fish products has increased in all European countries: between 1983 and 1990, annual fish consumption per capita in Europe rose from 15 kg to 22 kg.

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<sup>40</sup> COM(1999) 613, Community Participation in Regional Fisheries Organisations (RFOs).

The **Common Fisheries Policy (CFP)** is the European Union's instrument for the common management of fisheries and aquaculture, as required by the EU Treaty. The first measures date from 1970 when rules for access to fishing grounds, markets and structures were set. However, it was only in 1983 that the CFP was born, when Member States decided that the Community would manage fisheries in the waters under their jurisdiction and represents their interests in international negotiations.

The CFP can be divided into four main components. They deal with:

- **Conservation of fish stocks** by fixing TACs and national quotas as well as adopting technical rules such as minimum mesh size, gear regulation, minimum fish sizes, and the utilization of log books;
- **Structures** such as vessels, port facilities and fish processing plants are dealt through measures such as funding for fleet modernization or fleet reduction projects. Given the reduction of marine resources in EU waters, each MS plans the restructuring of its fleet within a multi-annual guidance programme (MAGP) which sets out objectives and the means to achieve them;
- **Common organisation of the market**, with the objective to match demand and supply, the creation of a single market and the incentive of international trade;
- **External relations**, which include negotiations in international organisations and fishing agreements with non-Community members that give EU vessels the possibility to fish in non-Community waters.

**The Member States must ensure that CFP regulations are respected.** There is a Community Inspectorate (with 25 inspectors) but their task is to ensure that all national enforcement authorities apply the same standards of quality and fairness in their enforcement.

The CFP was revised in 1992. This first revision concluded that technical measures and controls of catches were not preventing over-fishing effectively enough and that fishing effort had also to be regulated. The structural component became therefore very important and, additionally, the link between the different components was reinforced. For instance, without the existence of Fisheries Agreements with third countries, the main instrument of the external component of the CFP, structural measures reducing European fishing capacity would have been more severe.

In spite of the measures taken, the situation did not improve as expected and a second revision of the CFP is currently taking place. In this frame, the Commission has published, after a number of preliminary surveys, a Green Paper on the Future of the Common Fisheries Policy that is being discussed by different stakeholders. **The Green Paper states that “the policy has not delivered sustainable exploitation of fisheries resources and will need to be changed if it is to do so.** Its shortcomings can be expressed in conservation, economic and political terms”<sup>41</sup>. **In conservation terms, stocks are outside**

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<sup>41</sup> EC (2001), Green Paper on the future of the common fisheries policy. Vol. I, page 5.

**safe biological limits and this results from too generous catch limits, too limited fleet management plans and poor enforcement of the decisions taken.** In economic terms, the sector is characterized by over-investment, rising costs and shrinking resource base, and therefore poor profitability and declining employment. The Green Paper will be followed by a proposal from the Commission to the Council and the European Parliament.

### 2.2.3.2 *Subsidies*

**A further aspect of the significance of the EU fisheries sector is the role of subsidies, both direct and indirect, supporting the European fisheries sector.** The subsidies operate at many levels including structural funding for ports, roads, harbour infrastructure, processing plants, funding for decommissioning of the fleets and restructuring, as well as fuel and other input subsidies. For instance, the Financial Instrument for Fisheries Guidance (FIFG) budget has risen from €2,700 million for the period 1994-99 to €3,600 million for the period 2000-06 (Annex 6). Additionally, some of the regions dependent on the fisheries sector benefit from aid under the PESCA initiative or under the development or regional conversion programmes (Objectives 1, 2 or 5b of Structural Funds)<sup>42</sup>.

Subsidies are a common feature of the global fishing activities; they amount to between 17% and 25% of fishing revenues in industrialised countries. Direct and indirect subsidies, targeting both producers and consumers, are considered in economic analysis to have a distortion effect on the allocation of resources<sup>43</sup>. In fact, theoretical and applied analysis of the impact of subsidies in the fishing sector demonstrates that, on balance, they increase fishing effort by reducing the investment and operating costs for distant water fleets (DWFs)<sup>44</sup>. They are high on the agenda of the World Trade Organization (WTO) for resolution in the near future.

### 2.2.3.3 *Profitability*

The invested capital per job in the fisheries sector as such is very high being on average 10 to 20 times the average of the 1999 gross fixed capital formation<sup>45</sup>. This high capital intensity is accompanied by a very high value added per job, greater than the value added in agriculture and in industry. However, despite intense public support, the net profit of the EU fishing fleets has been negative or very weak and capital has not remunerated. Data show that the financial viability of the majority of the Community fleets was compromised in the late 1990s. In parallel, the capacity of the EU fleets is under-utilised. Between 1994 and 1999, except in Italy and Portugal, no trawler fleet reached a satisfactory profitability threshold.

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<sup>42</sup> EC (2001), Green Paper on the future of the common fisheries policy. Vol. II, page 23.

<sup>43</sup> See, for example, Hall Varian, "Intermediate Microeconomics", W. W. Norton and Co, 1999.

<sup>44</sup> See, for example, the Green Paper, Vol. II, pages 44.

<sup>45</sup> Green Paper, Vol. II, pages 38-40.

## 2.2.4 Importance for coastal countries

### 2.2.4.1 *Economic and social aspects*

Fisheries and fisheries related-activities are often important providers of **wealth and employment** in coastal countries and are therefore an important factor in the enhancement of sustainable economic growth and the alleviation of poverty. Effects in terms of employment include direct employment for the fishermen themselves and secondary employment in conditioning, processing, transportation and distribution sectors as well as in sectors providing goods and services for fishing and fish-processing activities such as shipbuilding, repair and maintenance, etc. This applies to tuna canning in Senegal, Côte d'Ivoire, Ghana, Mauritius, Madagascar and Seychelles<sup>46</sup>.

**Government revenues** are also increased through tax collection from various different economic activities as well as through the rent derived from access rights. The first type of revenue is difficult to estimate as in most cases tax revenue is not presented by sector of origin. For the second type, revenues from EU FAs are known but not those from other private or bilateral arrangements, for which little information is available. EU FAs represent a total financial compensation of €1,802 paid by the EU, from 1981 to mid-2001, to Morocco and the ACP countries considered in this evaluation. It should be noticed, however, that half of this amount (€908.4 million) corresponded to the agreement with Morocco.

Fisheries contribute to **foreign exchange earnings** through commercial exports and access rights, in particular in Ivory Coast, Equatorial Guinea, Guinea-Bissau, Madagascar, Mauritania (50% of total exports), Mozambique and Senegal (23% of total exports). It is estimated that in recent years 63% of the fisheries exports from the ACP countries as a block have gone to the EU, 27% to Japan and 10% to the United States. Regional trade in dried, salted or smoked fish is equally important both as a source of employment and revenue for coastal countries and as a source of protein for land-locked countries.

### 2.2.4.2 *Fisheries dependent communities*

The fisheries sector can be of crucial importance for **specialised coastal communities** that do not have alternative livelihoods or other sources of proteins at affordable prices, even if in some cases the communities are small in terms of the number of people they represent. This is the case, for example, for the Imraguen people in the National Park of the Banc d'Arguin in Mauritania. More typical is the case of Senegal's coastal villages where about half the inhabitants earn their income from fisheries; in some villages, more than 80% of the people depend directly on fishing.

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<sup>46</sup> EC (2000), Fisheries and Poverty reduction, Commission Staff Working Paper.

#### 2.2.4.3 *Fisheries and food supply*

In low-income countries, fish accounts for a declining but still important proportion of total animal protein requirements. Annex 7 shows the contribution of fish to protein consumption in ACP countries under EU FAs. In most of these countries, fish provides more than 25% of the total animal protein intake and, in some countries, this figure exceeds 60% as, for example, in Comoros, Equatorial Guinea, Gambia, Ghana, Guinea and Sao Tome. In Guinea, fishing contributes only 0.5% to the GDP but provides 60.2% of the total animal protein intake.

#### 2.2.4.4 *National fleets*

Fishing activities in developing countries involve three non-exclusive types of activities: (a) rudimentary subsistence fishing, (b) more specialised small-scale and semi-industrial activities where products are marketed and more sophisticated fishing methods and equipment are used and (c) industrial fisheries that require more capital intensive and increasingly high technological equipment. Their respective catches are difficult to estimate but it is assumed that they are positively correlated with the degree of complexity of the fishing methods used. It is also generally accepted that the local industry, where it exists, is small and that the number of vessels lying idle is large because of maintenance problems. In this sense, many sources consider that the contribution of small-scale fisheries, or even semi-industrial fleets, to the depletion of marine resources in ACP countries is insignificant. However, this is not always the case and Senegal is in clear contradiction to these assertions (Annex 11).

### 2.3 Fisheries Agreements

#### 2.3.1 Main characteristics

Fisheries Agreements are negotiated by DG Fish on behalf of the EC<sup>47</sup> with non-EU countries to settle fishing rights for EU vessels in the Exclusive Economic Zones of those non-EU countries. They were designed to compensate for the loss of access to non-European fishing areas when the zones of jurisdiction of coastal states were extended to 200 miles in the mid-1970s. They also intend to address the problem of over-capacity of the European fleet while maintaining the employment and economic activity in the sector. Indeed, supporting the European fisheries sector and the supply of fish to the European market has become more difficult as fish stocks in EU waters have been substantially depleted in recent years.

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<sup>47</sup> See Section 2.3.2 below for information on negotiation procedures.

Some 28.5% of the Community CFP budget over the period 1993-2000 has been spent on Fisheries Agreements (Green Paper, Vol. II, page 26). This amount has increased progressively from €5 million in 1987 to €276 million by 2000. This is equivalent to 5% of the total amount allocated to the external actions of the EC on the 1998 budget (EC/IFREMER, 1999).

Some 20% of the EU fish production comes from Fisheries Agreements with ACP countries. It is estimated that for the period 1993-97 FAs with developing countries have generated for the EU an annual average of €484 as total production (catches) and €275 million as direct value added. These amounts were produced by an average of 14,182 direct jobs and 20,100 indirect jobs. Member States benefiting from these FAs are principally Spain, Portugal and France. Forty-seven percent of the total catch of the Spanish national fleet and 23% for the French national fleet were generated in 1993 by non-adjacent fisheries (EC/IFREMER, 1999).

There are different categories of FAs but the current study covers only the ones signed with developing countries. These agreements define the conditions for **buying access rights to surplus stocks in exchange for financial compensation** and typically include additional measures to support the development of the local economy as well as technical conservation measures that complement national and international legislation (Annexes 8 and 9). The payment for the access of EU vessels to the coastal state's fish resources consists on average of 80% of the contribution of the EC (including the so-called non-targeted and targeted compensations) and 20% coming from the shipowners' licence fees.

#### Box 2-7 - Purpose of Fisheries Agreements

"The purpose of these Agreements is to establish the principles and rules which will govern in all respects the fishing activities of vessels flying the flag of Member States of the Community, hereinafter referred to as 'Community vessels', in the waters over which [country name] has sovereignty or jurisdiction in respect of fisheries, hereinafter referred to as [country name] waters', in accordance with the provisions of the United Nations Convention on the Law of the Sea and other provisions of international law" (Article 1 Fisheries Agreements).

##### 2.3.1.1 Access to surplus stocks

According to international conventions (for instance, UNCLOS Article 62), a Fisheries Agreement can only be signed to exchange "**surplus stocks**", that is, the stocks corresponding to the difference between the coastal country's targeted management objective and the domestic fishing capacity. Consequently, if an exact assessment of the state of the resource is not feasible, due to lack of capacity or adequate scientific methods, the **precautionary principle** should be applied.

It is up to the coastal country to ensure that “the living resources [within its EEZ] are not endangered by overexploitation” (UNCLOS Article 61). By signing the Fisheries Agreement, the EC assumes that the coastal country has made an inventory of the resource and that it is only trading their surplus stocks. However, the EU vessels are not the only fishing parties in the EEZ since the FAs are non-exclusive contracts for the exploitation of the marine resource in a given area<sup>48</sup>. Therefore, when coastal countries do not release information on the other agreements and on their own fishing effort as it often happens, it is impossible to verify this assumption. **As Fisheries Agreements give EU vessels access to a renewable but exhaustible natural resource and this resource is part of the development capital of low-income coastal states, any change in the level or composition of the resource may affect the country’s long-term prospects for growth and development.**

### 2.3.1.2 *Compensations*

As mentioned above, access rights to the EEZs of coastal countries are bought by the EC in exchange for financial compensation. **A distinction is made between non-targeted and targeted compensations:** the former is a cash payment made annually in exchange for the right to access the resource, it is meant to directly increase the revenues of the country and it is in principle paid to the central government. In some cases they may represent an important fraction of government revenues (e.g. in Mauritania they are equivalent to 20% of all government revenues and 67% of non-tax revenue). In other countries, such as Madagascar, the so-called “non-targeted” compensations are not reflected in the budget, which raises problems in terms of good governance.

**In the last few years there has been a trend within the EC to favour targeted actions within the frame of FAs.** This has been made explicit by the Fisheries Council Resolution of 1997, by the COM (2000) 724 “Fisheries and Poverty Reduction” and in the various reports of the European Parliament<sup>49</sup>. At the same time, these documents have confirmed the commercial nature of the FAs. The trend towards targeted actions has progressed partly in response to earlier criticism that FAs did not sufficiently take into account the development of the fisheries sector in coastal countries.

According to this view, as the governments of coastal countries are responsible for the management of marine resources in their respective EEZs and are often affected by a limited financial, technical and human capacity to implement such a policy, targeted actions should be included in the protocols to help the coastal countries to fulfil this responsibility. In most cases, these actions are in the areas of scientific research and monitoring, control and surveillance (MCS); capacity building; and participation in international and/or regional fisheries organisations. In some cases, support for small-scale fisheries has also been foreseen. Targeted actions are financed either through the central government, responsible

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<sup>48</sup> Cases of conflicts between local and foreign vessels fishing in the same area have been observed (e.g. Mauritania, Senegal and Guinea Bissau – Annexes 10, 11 and 14).

<sup>49</sup> For example, PE 286.502, 17 January 2001.

for making the necessary transfers, or directly to chosen institutions who receive the funds from the EC. In both cases, targeted actions are seen as a way of making commercial agreements contribute to development objectives.

**On average, the share of the targeted actions has increased from 11% to 41% between the first and the most recent FA in our sample of countries.** In agreements signed with Comoros, Gabon, Ivory Coast, Madagascar, Mauritius, Sao Tome and Senegal, targeted actions represent at least 50% of the total financial compensation (Table 1).

### 2.3.1.3 Additional measures

Besides targeted actions directly financed by the EU, FA protocols contain additional clauses of two types. **First, measures to support the development of the local economy**, such as the conditions for voluntary or compulsory landings of catches and/or by-catches, the embarkation of local crew or the use of local supplies and services. **Second, technical conservation measures to frame the behaviour of EU vessels fishing under the FA and complementing local and international legislations.** Such measures include biological rest periods, mesh sizes, fishing zones and the embarkation of scientific observers on board. The obligation of the EU vessels to provide the relevant information about their fishing activities, such as regular catch declarations, is also laid down in the Protocol (Annex 9).

**Table 1 – FAs' Financial Compensation and Targeted Actions**

Country	Protocol	Total compensation (thousand €)	Targeted actions (thousand €)	Percentage
<b>Angola</b>	03.05.00 to 02.05.02	27,950	8,050	29 %
<b>Cape Verde</b>	01.07.01 to 30.06.04	2,040	840	41 %
<b>Comoros</b>	28.02.01 to 27.02.04	1,050	631	60 %
<b>Equ. Guinea</b>	01.07.00 to 30.06.01	220	120	55 %
<b>Gabon</b>	03.12.01 to 02.12.05	5,050	3,535	70 %
<b>Gambia</b>	01.07.93 to 30.06.96	1,400	300	21 %
<b>Guinea Bissau</b>	16.06.01 to 15.06.06	40,000	4,000	10 %
<b>Guinea</b>	01.01.00 to 31.12.01	5,920	1,920	32 %
<b>Ivory Coast</b>	01.07.00 to 30.06.03	2,872	2,017	70 %
<b>Madagascar</b>	21.05.01 to 20.05.04	2,475	1,551	63 %
<b>Mauritania</b>	01.08.01 to 31.07.06	430,000	20,000	5 %
<b>Mauritius</b>	03.12.99 to 02.12.02	1,237	619	50 %
<b>Morocco</b>	01.12.95 to 30.11.99	500,000	137,000	27 %
<b>Mozambique</b>	01.01.92 to 30.09.93	480	180	38 %
<b>Sao Tome</b>	01.06.99 to 31.05.02	1,912	956	50 %
<b>Seychelles</b>	18.01.02 to 17.01.05	10,380	3,480	34 %
<b>Senegal</b>	01.05.97 to 30.04.01	48,000	24,000	50 %

## 2.3.2 Negotiation procedures

### 2.3.2.1 *European institutions*

Since the mandate received from the Council through the Hague Declaration in 1986, DG Fish has the exclusive power to negotiate the FAs. However, the EU comprises several actors involved or interested in being involved in the definition of the content of the FAs. Various EC services meet during the preparations leading to the negotiations between the EC and the coastal states, the negotiations themselves and the legislation procedures (see Diagram 1). **However, it is only on the signed Protocol that the amendments proposed during the internal consultations could be incorporated.**

During the interviews with the EC officials, it emerged that coordination is hampered because the Commission's negotiating position and consultation procedures between EC institutions are not formalised and change from case to case. At the same time, the documents cited as the main elements for defining the EC's position, are missing or are superficial in nature<sup>50</sup>.

### 2.3.2.2 *EU member states*

Some EU Member States have their own national interests in the fisheries sector. These will depend on the importance of the sector in their own economies and hence can be transposed in different ways into policy measures. However, during the negotiation of FAs, they are represented by the EC who delegates its responsibility to DG Fish.

The Member States play a key role in influencing the content of the FAs through the Council Working Group and by attending the negotiations (see Diagram 1). Information on needs and requirements from the fishing Member States has to be taken into account by the Commission. The number of vessels allocated and their distribution depend on the traditions and interests of particular countries and on the utilisation rates laid down in the expiring Protocol.

Where no Fisheries Agreement is signed by the EU, European shipowners may agree private arrangements with the coastal state by creating joint ventures and/or with local private operators. In some cases, these activities may be supported, directly or indirectly, by the national or regional authorities of the Member State concerned.

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<sup>50</sup> See Section 2.3.3 and several reports of the Committee on Fisheries of the European Parliament (e.g. European Parliament 1996, 2000, 2001).

### 2.3.2.3 Coastal states

**EU vessels operating under EU FAs are not the only ones fishing in southern EEZs.** Coastal states also negotiate agreements and private licences with EU and non-EU fleets and countries but, most often, do not release the terms of these agreements. In most cases, the only publicly available information regarding these arrangements is the one provided by the EC on EU FAs. As a consequence, no data is available about the fishing activities of EU or non-EU fleets, outside the frame of EU FAs. In particular, there is lack of information about private licences, re-flagging and chartering. **Therefore, EU FAs are negotiated and implemented without any guarantee that the overall (EU and non-EU) fishing effort will be kept below sustainable levels.**

## 2.3.3 Implementation

### 2.3.3.1 Players and their responsibilities

Many players intervene in the management and implementation of the Fisheries Agreements. The coastal state is responsible for the active protection of the resource within its EEZ, as dictated by international obligations (UNCLOS), while all the fishing parties that have adhered to the FAO-CC are responsible to apply it. Moreover, in its Resolution of 8/11/01, the Council “reiterates that the Community and the Member States must implement fully the commitments, principles and objectives approved within the UN and other competent international organisations, in particular a) the UNCLOS, b) the FAO Code of Conduct for Responsible Fisheries and c) the UN Agreement on Straddling and Highly Migratory Fish Stocks”.

### 2.3.3.2 Monitoring, Control and Surveillance (MCS)

EU vessels fishing under the FAs are obliged to complete catch documentation reports and submit them within specific time frames. **However, catch declarations forms are reported to be limited in content and do not provide the full data required<sup>51</sup>.** Gaps in reporting and the under-declaration of catches by the shipowners (Annexes 10-14) mean that the management of stocks has to rely on incomplete data. A regional catch-monitoring scheme within the EEZ of Madagascar reported catches 31% higher than those declared by the fleets. Additionally, in Madagascar, more than 50% of catch reports received for the 2001 fishing season were submitted late (Annex 12).

**No uniform procedure for the collection of data from the shipowners has been observed** in the countries visited or reported in the questionnaires. Catch declarations are submitted either directly to the Member States via the EC Delegation to DG Fish or to the

<sup>51</sup> See several reports of the Committee on Fisheries of the European Parliament (e.g. European Parliament 1996, 2000, 2001).

coastal states' authorities (Annex 14). The lack of adequate information transmitted by Member States is also acknowledged in the Green Paper on the CFP (Vol. II, pages 19-20).

**Data collected from the vessels constitute crucial information for accurate stock assessment owing to limited or non-existent scientific capacity on the part of coastal states.** These data have to be processed and possibly completed with the results of scientific research (observer data and/or shore sampling data). However, **scientific assessments are in practice under the coastal states' responsibility and are constrained by lack of means and poor effectiveness.** For example, some coastal states, such as Madagascar, the Comoros and Sao Tome do not possess a research institute responsible for fisheries science. Even if an institute exists, it does not always produce reliable reports as, for instance, in the case of Angola, Guinea Bissau and Senegal (Annexes 11 and 14).

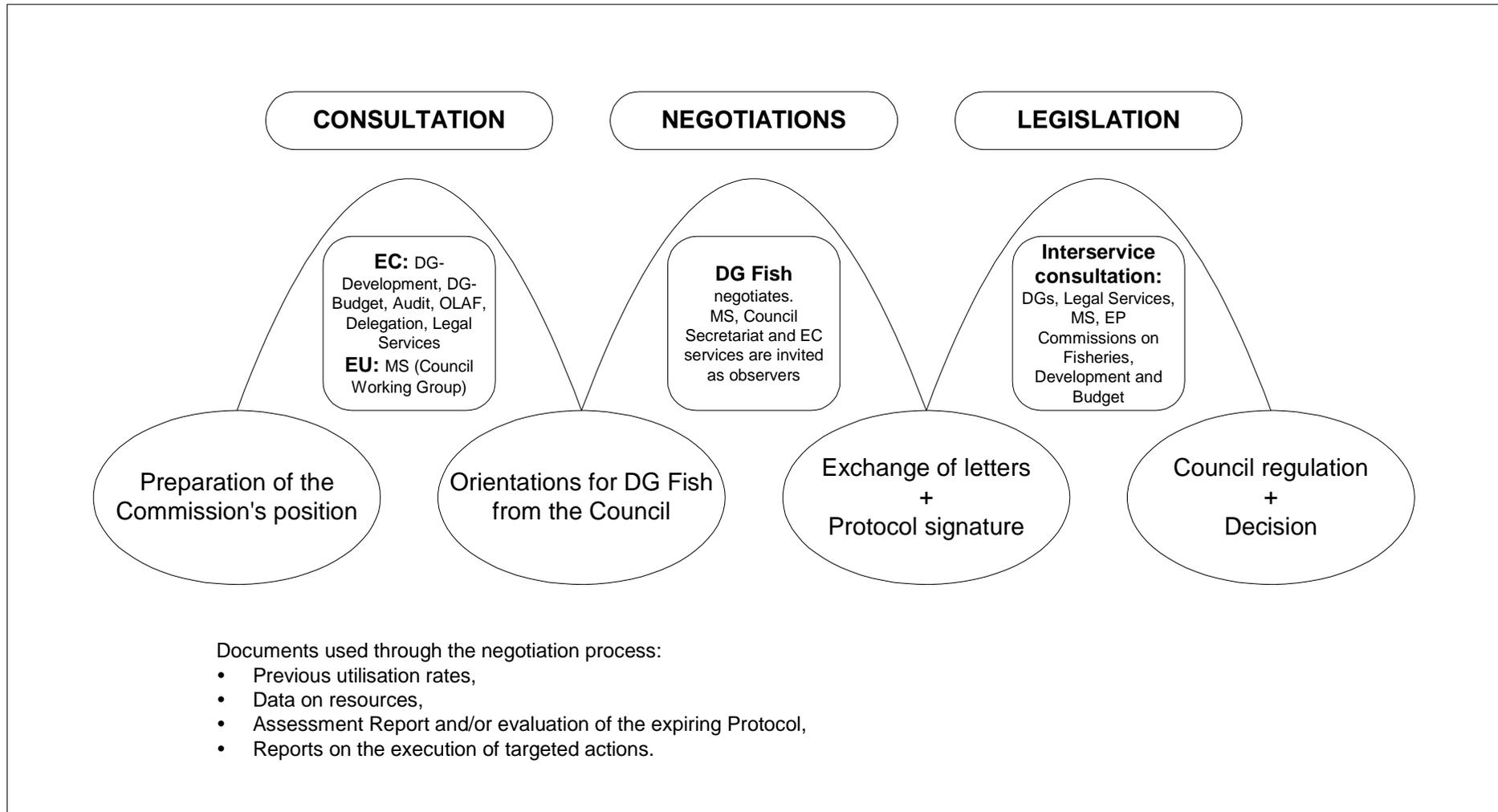
**In other cases, the commitment of the coastal state is not sufficient.** For instance, in Senegal, the pre-1996 protocol included targeted actions on research and MCS that were directly financed by the EC. These activities were carried out without any major problem during the period of validity of the protocol. During the renegotiation of 1996, the government of Senegal claimed that all payments due in the frame of this commercial agreement had to be done to the central government. At the same time, the government promised to reallocate 50% of the compensation payments to the sector. From 1996, however, the annual budget of these research and MCS the institutions was strongly reduced or was transferred late. **This shows that the financing of these institutions was not a priority for the government** (Annex 11).

**Vessels within the FAs are required to transmit entry, exit and daily reports** while operating in EEZs of the coastal states. **Here again, reporting does not often meet requirements.** In Madagascar, for example, in the 2001 season, more than 50% of reports from vessels were received after the specified time. The application of the Vessel Monitoring System (VSM) is often limited and takes time to be operational. The Seychelles have received targeted funds for a VMS since the last FA came into effect in January 1999, but the system is not yet operational.

As mentioned above, the **regional bodies** often facilitate co-operation between the fishing parties and provide support for scientific assessments. Some coastal states, such as Ivory Coast and Comoros, make the effort to take part in certain regional strategies for the management of their marine resources (Annex 14).

**Tuna stocks are especially difficult to assess. Research data at the national level are incomplete for such a highly migratory species.** The Indian Ocean Tuna Commission (IOTC) is working on this issue (Seychelles and Madagascar). Where there is no reliable data for scientific reasons, the role of monitoring increases proportionally, since the outlook for stocks is based on scientific experience and biological indicators. These allow scientists to determine how much fish can be caught without damaging the species. The UN Agreement on Straddling Fish Stocks regulates these issues. So far, the EC and some Member States have not ratified the Agreement.

Diagram 1



In view of the deficient data collection and processing, the “Written Evaluation of The Expiring Protocol”, one of the reference documents on which the DG Fish negotiates the FA with the coastal state, is often incomplete, unavailable or does not include information on the state of the resource (European Parliament Reports).

Despite signs or other indirect data pointing to the over-exploitation of some resources, the **precautionary principle is not always applied**, as reported for Senegal, Mauritania and Guinea Bissau (Annexes 10, 11 and 14). In the case of Seychelles, possibilities for fishing tuna acquired for EU vessels are decided in the frame of the IOTC but have been maintained at the same level for several years, independently of the results of the assessments (Annex 13). In Mauritania, during the 2001 negotiations, the EC asked to increase the number of vessels fishing cephalopods despite the conclusions of an international conference, which advised a reduction of the fishing effort.

There are cases where data exist but are not made public. In addition, the results of Member States’ research programmes are not always shared with coastal states and other stakeholders (Annex 10).

#### *2.3.3.3. Implementation of economic and technical measures*

**Due to the lack of information, it is difficult to assess the implementation of the economic and technical clauses included in the EU FAs protocols** (see Section 2.3.1). Additionally, due to the commercial nature of the FA, the implementation and impact of such measures on the local economy are not monitored.

In some cases, the provisions for the landing of catches and by-catches are not respected due to poor infrastructure in harbours, for example in Cape Verde, Guinea Bissau, Comoros (Annex 14). In other cases, observer coverage is regularly lower than stated (evidence for Seychelles and Madagascar reported in Annexes 12 and 13); it does not contribute significantly to catch validation and does not accurately assess the compliance of the EU vessels with the technical conservation measures agreed in the protocol. In Madagascar, due to inadequate communication by shipowners, local authorities are not given enough time to prepare and deploy any seamen that might be needed.

#### *2.3.3.4 Enforcement of the law*

The coastal state is currently considered the main responsible for sanctioning non-compliance with the obligations arising from FA clauses and from international and national laws and regulations (Annex 14 with information on Angola, Guinea Bissau, Mozambique).

The problems encountered by the local authorities regarding the enforcement of sanctions are sometimes attributed to the lack of means of controlling illegal fishing (e.g., Sao Tome). In Cape Verde, sanctions are stipulated in the agreement; however the weak or practically nonexistent control system does not allow non-compliance with regulations to be reported.

On the other side, there is no evidence of any sanctions being taken by the EC or the EU Member States who are directly responsible for their vessels. In Sao Tome, according to the information provided by the Delegation, the government often complains that Spanish shipowners, in particular, do not embark seamen or observers and declare zero captures. The EC's position in these cases is to say that the Sao Tome government itself must solve the problems arising from transgression of the rules. When the government tried on one occasion to block the delivery of licences, the Commission argued that it was illegal (see the questionnaire). On the other hand, there have been indeed cases where steps taken by governments were not adequately justified (DG Fish).

## 3. Analysis

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Fish stocks are sharply diminishing in European waters. Despite this trend, the CFP allows for a high level of subsidies supporting an excessive fishing capacity, which leads to a further depletion of the stocks. In order to give access to these European vessels to fishing areas located in third countries' EEZs, the EC signs Fisheries Agreements with those countries, many of which benefit from EU development aid. This aid is channelled through the Country Programmes negotiated with the government of the beneficiary countries. The following evaluation questions are mainly aimed at assessing the coherence between FAs and Country Programmes from the overall development point of view.

### 3.1 Question 1

**Are the objectives of the FAs coherent with the objectives of the country programmes?**

As shown in Box 2-7, all **FAs share the same purpose** of providing a framework stating the conditions under which EU vessels are allowed to fish in the EEZ of coastal states.

Box 2-1 lists the goals and purposes of Country Programmes of the countries that have signed a fisheries agreement. The goals generally reflect the overall objectives of the EU development policy as are stated in the Treaty of Amsterdam, that is, sustainable economic and social development; poverty alleviation; democracy, rule of law and human rights; and integration into the world economy. The specific objectives refer to priorities such as economic growth, infrastructure, support for the private sector, environment, transport, agriculture, public sector performances, democracy and good governance.

**Granting access, against compensation, to a resource that the coastal country cannot exploit is coherent with the above objectives, provided the conditions under which access is given to EU fleets are such that FAs contribute to at least one of the above objectives and are not in conflict with any of the others.** As with any commercial contract, FAs are expected to result into an increase of the countries' net wealth. In other words, they should provide more income to the country than would the alternative uses of the resource, such as private licences or the development of national fleets. Therefore, FAs would not be coherent with CP objectives if they contribute to environmental destruction or to a long-term depletion of country assets, which is the case if they do not operate in a context of sustainable fisheries. The answer to Question 8 shows that in many countries, the measures to meet this condition are not taken.

Box 2-2 presents the objectives of the CPs for the fisheries sector in the various coastal states. Among the objectives listed one finds: support for artisanal fisheries, sustainable management of fisheries, creation and respect of marine reserves and quality control of fish products to be exported. Annex 9 shows that FA targeted compensations are very much focused on the same kind of priorities. The two instruments are therefore quite coherent at

that level and could be seen as complementary. However, while the overall trend in the frame of the development policy is to shift resources from individual projects towards budgetary aid<sup>52</sup>, the most recent FAs provide for a greater share of targeted compensation<sup>53</sup>. These two trends are contradictory. Moreover, coastal states might find it hard to accept the legitimacy, on the part of the EC, of keeping closer control over commercial agreement's compensations than over public aid. The status of the FAs targeted funds, that is, compensations paid under the frame a commercial contract, also weakens the EC's position when it comes to monitoring and evaluating the use of these funds. The EC is therefore in the awkward position of a negotiator who is unable to ensure that the terms of the agreement are properly carried out.

*Question 1. FA objectives are coherent with the objectives of Country Programmes provided they are operated in a context of sustainable fisheries. Most often, there is no guarantee that this is the case. Targeted actions are generally coherent with CP priorities in the fisheries sector, but the increasing share of targeted compensation in the most recent FAs is in contradiction with the general trend away from individual projects towards budgetary aid.*

### 3.2 Question 2

**Are the objectives of the FAs coherent with the objectives of the national policies of the coastal countries?**

As shown in Box 2-3, the objectives of the national development policies are very much in line with the objectives of CPs. Several countries consider poverty reduction as one of their top priorities. Economic growth, notably based on private sector development, infrastructure and enhancing public services, is another frequent priority, as it is the sustainable management of natural resources. Further, Box 2-4 provides some information on the national priorities in the fisheries sector. They are often included in the rural development policies and mainly include income generation, food security, environment and the promotion of fish products.

As argued above in Question 1, **FA objectives are not in contradiction with such policies, provided they operate in a context of sustainable fishing practices**, which is at least questionable in most cases.

Currently, FAs cover three dimensions that are very different in nature:

- **The first dimension is the access to the resource.** It is the primary objective of the agreement from the European point of view and it justifies a price to be paid to the coastal state according to the value of the stocks expected to be caught. The level of

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<sup>52</sup> See Section 2.1.1.1

<sup>53</sup> See Section 2.3.1.2

this price (or rent) is, in principle, the result of a free commercial bargain between the coastal state and the shipowners. In other contexts, such as forestry, similar access rights to a fixed resource are auctioned between several bidders.

- **The second dimension is the sustainable management of marine resources.** Granting private operators access to a resource, even on a competitive basis, does not prevent the authorities from imposing regulations to the awarded operator and even a financial contribution to the sustainable management of the resource. Again, in other contexts, this cost can be financed by a special tax or directly shared between the operators. In principle, the amount paid is related to the actual cost of the activity in question and not regulated by the market.
- **The third and last dimension reflects the ambition of the EU to contribute to the development of third countries.** Unlike the two previous ones, this dimension is not directly related to the activity of fishing but results from a public political choice. As such, it is normally financed from aid resources.

Reflecting more or less explicitly these three dimensions, the compensations paid by the EC in the frame of FAs can be divided into **three different components**: non-targeted payments and targeted compensation which can, in turn, be divided into support for marine resource management and support for the development of the local fisheries sector.

The first element, **not targeted payments**, is meant to directly increase the revenues of the country and is normally paid to the central government. In some cases, these payments may represent an important share of government revenues. When these financial compensations are included in the national budget, they can be used, like any other public revenue, to finance public spending, which is under the exclusive control of the government. For example, in Mauritania, financial compensations from FAs make up 66% of non-tax revenue and 20% of total public revenue and are thus known to finance different government policies.

The second element is **the financial support for the management of marine resources** in coastal countries. It is sometimes argued that the governments concerned are willing to carry out a sustainable NRM policy but do not have enough capacity or resources to do so. However, the requirement of EC negotiators to dedicate part of the compensations to financing NRM instruments such as MCS or research, relies on the assumption that the coastal governments would not have allocated the same amount for that purpose, had it received the whole compensation as non-targeted payment. The extent to which this allocation reflects government priorities is therefore ambiguous.

The third element is the **support given for the development of the local fisheries sector**, which includes, e.g. support for small-scale fisheries, capacity building, etc. These are typical development co-operation interventions, which over time, have been financed through FAs instead of through development funds. However, unlike development instruments, the way FA protocols are negotiated seldom allows using an appropriate procedure to select and plan the interventions or evaluate their execution. Moreover, many governments are reluctant to accept payments tied to specific projects or made directly to

local institutions. The fact that the EC has to negotiate, sometimes with difficulty, the allocation of part of the compensation to these activities suggests they are not perceived as meeting the government's priorities and are, therefore, probably unsustainable (see also Question 7).

*Question 2. FAs objectives are not in contradiction with the objectives of the national policies, provided they operate in a context of sustainable fisheries, which is at least questionable in most cases. FAs currently cover three different dimensions. When compensations take the form of a non-targeted contribution to the budget their use is by definition in line with the government priorities. Targeted compensations dedicated to NRM or fisheries development at the request of the EC, are less likely to fit in with government priorities.*

### 3.3 Question 3

Is the support to the fishery sector provided by FAs contributing to the International Development Targets (understood in its general aim of reducing poverty) while contributing to the sustainability of fishery resources?

FAs **support the fisheries sector** through targeted actions such as MCS projects, technical assistance to the Ministry of Fisheries, technical studies, training and support for participation in international fisheries organizations. These actions represent on average nearly 40% of the total compensation payment and such measures are found in almost all FAs with ACP countries. FAs may also support the development of local fisheries, by providing for compulsory boarding of local seamen (in 11 out of 17 cases) or by funding small-scale fisheries (in 9 out of 17 cases). Many FAs insist on the fact that local fisheries capacities should be developed but their financial contribution to this end is very limited (an average of 1% of the total financial compensation) except in the case of Seychelles (36%), Comoros (36%) and Equatorial Guinea (18%).

**The impact of all these measures on poverty reduction is very limited.** The overall amounts are small. The opportunity costs of these funds as a mean to address poverty is rarely assessed<sup>54</sup>. Moreover, a distinction must be made between small-scale and industrial or semi-industrial fisheries. Indeed, if supporting small-scale fishers (Senegal) could be an effective way to improve the livelihoods of vulnerable groups, the support for industrial or semi-industrial (Seychelles) fisheries has a very limited effect on poverty reduction due to the capital-intensive nature of the sector and to the difficulty a local fleet would have to compete on international markets against European and other OECD fleets that can count on financial, technical and political support.

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<sup>54</sup> Would these funds, spent in a different sector be more effective in addressing poverty?

Finally, the effect that the support to the fisheries sector provided by FAs may have to the **sustainability of fisheries resources** depends on whether the activities: i) effectively give the country the means to enforce more sustainable fisheries and ii) do not increase the country's fishing capacity, at least if this activity targets species that are overexploited. Regarding the first aspect, most of the support given by FAs goes towards monitoring and control activities or institutional support that would eventually improve control and monitoring activities. However, considering their commercial frame and the fact that, unlike co-operation activities, FA-supported activities are not properly evaluated, it is difficult to assess whether they effectively contribute to the sustainability of fisheries resources. In some cases, there are clear signs of under-utilisation of control and monitoring capacities. Therefore, in the context of global excess fishing capacity and heavily subsidized fleets, increasing local fisheries capacity is an objective that may be detrimental to the sustainability of the resource. This may even be the case when small-scale fisheries are the beneficiaries if, as in Senegal, small-scale fisheries account for a large share of the total catch<sup>55</sup>.

*Question 3. The support for the fisheries sector in the framework of the FAs has a very limited impact on poverty reduction. Its contribution to the sustainability of the resource could be greater, since much of the support is targeted on MCS and research activities but the actual impact of these activities on sustainability is often questionable.*

### 3.4 Question 4

Is the compensation made under FAs contributing to the International Development Targets (understood in its general aim of reducing poverty) while contributing to the sustainability of fishery resources?

FAs financial compensations are normally paid to the central government (Mauritania, Seychelles, Senegal, Sao Tome, Guinea Bissau and, from 2000, Ivory Coast) but it is not always the case (Angola, Comoros, Madagascar). **When these financial compensations are included in the national budget**, they are used, like any other public revenue, to finance public spending, which is under exclusive government control. Further, **if the government indeed implements a poverty reduction policy, financial compensations from FAs do help to reduce poverty**. For instance, in Mauritania financial compensations make up 20% of total public revenue and government policies have achieved substantial reduction in the level of poverty. If there are no clear signs of poverty reduction, FA financial compensations - or any other public revenue - cannot be said to contribute to poverty reduction. This is the case, for instance, of Senegal, where no significant signs of decrease of poverty incidence have been observed.

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<sup>55</sup> See Annex 11

On the other hand, **targeted payments are not included in the budget and therefore it is more difficult to know how they are used and whether or not they contribute to a poverty reduction policy.** This is true, for example, in Madagascar, where “non-targeted” compensations are paid to the Fonds de Développement Halieutique (FDHA) and where a direct effect on poverty is very unlikely.

**Finally, untargeted compensations do not contribute to the sustainability of the resource** since few coastal states finance effective resource management policy on their own. For instance, in the case of Madagascar, little information is available about the effectiveness of the FDHA’s contribution to sustainable fishing practices.

*Question 4. When included in the budget, compensations made under the FAs may be considered as contributing to reduce poverty in coastal states where explicit poverty reduction policies are carried out. These compensations, on the other hand, do not contribute to the sustainability of the resource.*

### 3.5 Question 5

**Was the coastal country able to provide an accurate initial assessment of surplus stocks and of its own expected fishing effort? If not, which actions were taken?**

When information on catches, or reports on the execution of the FAs, is available, it is often taken into account during negotiations. It is the case of Angola, Cape Verde, Ivory Coast (where information is provided by the National Oceanographic Research Centre, which monitors and evaluates data on catches and stocks) and Guinea Bissau (a reduction of the fishing opportunities for cephalopods, tuna and small fishing boats has been decided in the Protocol in view of reported signs of over-exploitation of the resources). In Sao Tome, there is no information that might be considered during the negotiations as there is no institution in the coastal state capable of providing it. The Comoros office stresses the fact that, due to the lack of local monitoring, control and surveillance capacity, the only source of data about the fishing effort and catches of EU vessels comes from the EU vessels themselves (Annex 14). In the case of Madagascar and Seychelles, the information produced by these countries is nonexistent or unreliable and the data used is provided by the IOTC (Annex 14). In Senegal, little or no information is currently produced locally either on stock assessment or on own expected fishing effort. No specific action has been taken. Furthermore, none of the coastal states provide clear information about the private licences granted to non-European vessels (see Question 8). **In short, all the coastal states provide less information than they might about the fishing capacities permitted in their EEZ. No action has been taken to change this attitude.**

*Question 5. In general, the coastal states do not provide reliable initial assessments of the surplus stock. They are also not transparent about the fishing effort permitted in their EEZ. No specific actions have been taken by the EC.*

### 3.6 Question 6

Are FA interventions promoting the contribution of fisheries to food security and food quality, giving priority to the nutritional needs of local communities dependent of fisheries, in line with the objectives of the FAO-CC?

The FAO-CC explicitly promotes “*the contribution of fisheries to food security and food quality, giving priority to the nutritional needs of local communities*”<sup>56</sup>. Paragraphs 6.2 and 6.7 state that fisheries management should promote the maintenance of the quality, diversity and availability of fisheries resources in the context of food security and poverty alleviation. Fishery products should be harvested and handled in a way that protects their nutritional value, quality and safety. Paragraphs 6.18 and 7.6.6 stress the need to protect the food security and livelihood of local small-scale fishing communities<sup>57</sup>. Paragraph 5 states that developing countries should be helped to develop their own fisheries and take part in high sea fisheries.

No significant evidence has been found of a direct effect of FAs on the contribution of fisheries to food security. Indeed, as shown in Annex 9, although many FAs insist on the fact that local fisheries capacities should be developed, their financial contribution to the development of this sector is very limited<sup>58</sup>. The support takes the form of on-the-job training of fishermen on European vessels, of direct financial support for artisanal fisheries as in Senegal, where the government is committed to dedicate some of the compensation to that sector, or to semi-industrial fleets as in Seychelles. The effectiveness of these actions and their impact on poverty has never been assessed but it is likely to be limited.

The impact of the FAs on food supply and on nutritional patterns is also limited. Indeed, local landings of fish and/or by-catches may have an impact on local prices but no evidence of this has been found except to a limited extent in Seychelles. In Mauritania, Seychelles and Senegal, local landings mainly aim at supplying the export-oriented processing industry. In Senegal, the processing industry now attracts some species caught by artisanal fishers that were previously available on local markets, creating an impression of scarcity for these species but with no general impact on fish availability. In Mauritania, where fish is not part of the traditional diet, a programme to promote fish consumption has been set up by the government, all compensations being channelled through the budget, the FA does not contribute directly to this programme.

*Question 6. FAs have no significant impact on the quality or the quantity of food supply in the coastal states. Their effect on fisheries-dependent communities is limited.*

<sup>56</sup> FAO-CC Article 2 f)

<sup>57</sup> FAO-CC 7.6.6 “*When deciding on the use, conservation and management of fisheries resources, due recognition should be given to the traditional practices, needs and interests of indigenous people and local fishing communities which are highly dependent on fishery resource for their livelihood.*”

<sup>58</sup> See also Question 3.

### 3.7 Question 7

Do FAs allow both parties to meet their interests over a sufficiently long period of time in order to be sustainable?

FAs are commercial agreements. Their sustainability is therefore conditioned by the fact that all parties must benefit from the contract. These parties include the coastal countries, shipowners and the European tax-payer:

- **Coastal countries** have to find greater interest in signing or renewing an FA than in signing separate licence agreements with EU or non-EU shipowners or in promoting their “own” fleets, including through re-flagging foreign vessels. The current situation is that signing an FA with the EU does not prevent the coastal states from signing private licences with European and non-European vessels. FAs may, therefore, be seen as an additional source of income for the coastal states. On the other hand, it can be argued that the presence of European fleets under FAs may make the licenses for other foreign fleets less attractive since the same stock has to be shared between a larger number of vessels. Critical information is needed to know whether FAs are of interest for coastal states: a) the number of licenses granted, b) the budgetary and overall economic interest for a coastal state to develop its own fleets or to re-flag foreign vessels, c) the amounts paid by non-European licence owners as well as the extent to which these amounts actually benefit the budget and d) the economic impact of the various clauses of the fisheries agreements. This information is not available and therefore the question is difficult to answer. Widespread poaching in many of the coastal states also blurs the picture. It seems clear however that **the critical need for more sustainable natural resource management implies that most coastal states will in the future have to make clearer choices between granting access through the FAs and going for private arrangements, which will put the EU FAs under stronger competitive pressure.**
- **Shipowners** have to find an interest in fishing in these distant waters. In other words, profitability has to reach acceptable levels. This profitability is, in the first place, related to the technical productivity of the fishing effort. If stocks dwindle, productivity will fall and so will the interest of shipowners in the Fisheries Agreements. In most of the coastal states, the conditions for the sustainable management of the stocks are not being met. In many of them, signs of stock depletion are observed. **As long as the FAs are not implemented in a context of sustainable fishing practices to which they clearly contribute, they will not be sustainable.**
- European fisheries are a heavily subsidized sector. Under the current price conditions, the profitability of fishing fleets is strongly related to the public support they receive from various sources, notably but not exclusively, in the framework of the CFP. Other sources such as the European Structural Funds are used to provide indirect support to the sector. **The future of the FAs is therefore dependent on the European taxpayer’s willingness to finance, not only the direct cost of the FAs, but all forms of subsidies impacting on the profitability of the EU distant water fishing fleets.** The general trend towards a reduction of public intervention in

productive sectors will impact on the political acceptability of such subsidies<sup>59</sup>. Moreover, the WTO negotiations could force the EU to cut the subsidies significantly. This willingness to subsidize the sector is likely to be increasingly sensitive to the environmental consequences of such a policy. FA's sustainability is therefore highly dependent on the sustainability of the current policy of heavy subsidisation of European fisheries.

This conclusion leads us to a related question:

### 3.7.1 If FAs are not renewed, are FA-supported activities sustainable?

Fisheries Agreements include provisions in favour of the fisheries sector in the coastal country. These include activities such as: direct or indirect financing of research and MCS activities, direct or indirect financing of small-scale fisheries and the supply of fish to the local processing industry through compulsory local landings<sup>60</sup>. **The question addressed here is whether these activities can provide benefits over a sufficiently long period even if the agreement is not renewed under the same conditions.**

#### 3.7.1.1 *Natural resource management activities*

Protocols often include the partial or total funding of activities related to the management of marine resources, such as research and MCS. Research and MCS, however, could also be financed directly by the government from the untargeted compensation payments made by the EU. If the government of a coastal state has chosen not to do so, it is unlikely that it will dedicate its own resources to ensure the correct implementation of NRM activities launched with FA targeted compensations, should this FA not be renewed. The case of Senegal<sup>61</sup> among others suggests that despite EC pressure, the commitment of the coastal states to finance NRM activities is often weak.

#### 3.7.1.2 *Small-scale fisheries*

In some cases, protocols include specific funding for the development of small-scale fisheries. The underlying assumption is the same as with NRM activities: despite the availability of non-targeted compensations and development funds, it is assumed that the coastal country does not have the means to support the activity. In this sense, there is no reason why support to small-scale fisheries through targeted funds should be sustainable

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<sup>59</sup> Recent decisions of the US administration to support sectors such as steel and, especially, agriculture may have an influence on that trend. Resuming subsidies to such sectors has a negative impact on developing countries economies.

<sup>60</sup> Annex 9 provides the list of activities financed for each country.

<sup>61</sup> See Section 2.3.3 and Annex 11.

since it is unlikely that governments, already unwilling to dedicate untargeted funds to that activity, will ensure their pursuit with own resources. The only difference is that, while MCS activities need, by nature, a larger share of recurrent funding, the support for small-scale fisheries, if they contribute mainly to investments, could provide benefits for the targeted population even if the activities are no longer financed. This is an aspect that can only be analysed in each country and activity-by-activity.

### 3.7.1.3 Downstream activities

Protocols may also include a clause requiring EU vessels to land part or all of their catches in the coastal country in order to supply the processing industry. The logic behind this requirement is that, thanks to these landings, the agreement contributes to the development of economic activities in the coastal country, increasing value added and, indirectly, public revenues. It is the case of Senegal and Seychelles where part of the tuna canning industry depends on the compulsory landings of EU vessels.

From a development point of view, it is worth exploring what such requirements imply. Indeed, if local landings need to be compulsory, it is because the sector is not able to freely attract landings at competitive prices. Therefore, the agreement supports the development of a non-competitive sector. This makes the processing industry dependent on the renewal of the agreement, which means that the activity is not sustainable unless the protocol is renewed under the same conditions.

*Question 7. Most FAs are not sustainable since they are not carried out in accordance with sustainable fishing practices. Moreover their future depends on the future of the subsidies granted to EU fisheries, which are increasingly open to question. FA sustainability also implies that the Agreements are of value to the coastal states. This assumption should be analysed case by case on the basis of data that are not available at the present time.*

*Activities supported by FAs are generally not sustainable; there is no guarantee that the activities will continue if the protocols are not renewed under the same conditions. The dependency of these activities on the continuation of the FAs weakens the bargaining position of the coastal country vis-à-vis the EU.*

## 3.8 Question 8

**Are FAs interventions coherent with the principle and practice of responsible fisheries?**

The principle of responsible fisheries has been agreed in the FAO-CC of which the aim is to promote sustainable fisheries practices<sup>62</sup>. In principle, the FA approach relies on the assumption that each Fisheries Agreement is based on an accurate assessment of the

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<sup>62</sup> “The objectives of the code are to: a) establish the principles of responsible fishing and fisheries activities...”

surplus stock, where surplus stock is defined as the difference between the total allowable catch and the stock that the local fleet can harvest. If no real surplus exists, FAs operate in a context of over-fishing, and contribute, by subsidizing the access of EU vessels, to the depletion of stocks, damaging one of the productive assets of the country, not to mention the broader ecological consequences, which are of global concern. Thus, in view of the increasing scarcity of global fishing resources vis-à-vis a fast-growing global demand, over-fishing causes a major prejudice to the development capacities of the coastal states. It is therefore critical to verify whether FAs in practice fit in with the principles of responsible fisheries.

### 3.8.1 The lack of reliable data

#### Box 8 - From destructive competition to sustainable co-operation

When a natural resource is declining, exhausted by decades of destructive competition, the main challenge is to design a new realistic institutional and economic framework to make sure that the main stakeholders are more interested in **co-operating to protect that resource than in competing to mine it**. The incentives and ethical values required to address these new circumstances do not need to prevent all forms of competition, but they have to change **its frame of rules and responsibilities**. Undisputed authorities have to **co-operate** to design and enforce the rules under which individual actors may **compete** without depleting the resource. Any breach in the co-operation between the authorities, any loss of **legitimacy** of any of them, any weakness in the willingness or capacity of these authorities to enforce the common rules, and the resource as well as the people who depend on it are under threat. This is typically the case when all the players do not genuinely share the same concern for the long-term sustainability of the resource. The transition from hunting toward pastoral range management provides numerous examples of the difficulties and achievements of that process.

The FAO-CC starts its preface by stressing this transition from the deep-rooted feeling of abundance of marine resource to the current evidence of scarcity and strongly advocates **international co-operation** to provide and enforce **common frameworks** in order to regulate the competition between fishing fleets and protect currently mined marine resources.

Reliable monitoring data and scientific analysis would allow us to ascertain whether resource management is sustainable in the different areas concerned by the FAs. However, as it has already pointed out<sup>63</sup>, in most coastal countries, the data to monitor the sustainability of the fishing effort are either not collected or not shared with the relevant stakeholders, which is a violation of the FAO-CC<sup>64</sup>. Consequently, it cannot be guaranteed that FAs do not in fact contribute to the depletion of a vital global resource. This major

<sup>63</sup> See Section 2.3.3.

<sup>64</sup> FAO-CC 7.4.4 “*States should ensure that timely, complete and reliable statistics on catch and fishing effort are collected and maintained... Such data should be updated regularly and verified through an appropriate system. States should compile and disseminate such data in a manner consistent with any applicable confidentiality requirements*”.

flaw is often explained by the technical and financial weakness of the coastal states, which are considered as solely responsible for the management of their EEZ. However, the evaluation findings strongly suggest that these unquestionable limitations are only part of the explanation. Most of the currently available data are collected by the fishing vessels but the information is not circulated properly among the parties concerned. According to the FAO-CC it is the responsibility of the flag countries to ensure that this information is properly collected and circulated<sup>65</sup>. **Thus, more than the *capacity* of the different stakeholders to monitor the situation, their *willingness* to do so and to share that information has to be questioned.** Adapting the institutions to ensure the sustainable management of a resource that becomes scarcer is an old and difficult issue succinctly introduced in the following box.

### 3.8.2 ...is mainly due to a weak commitment to ensuring sustainable fishing practices

The creation of EEZs in the mid-seventies meant that responsibilities in the coastal areas were defined more clearly. Fisheries Agreements, on the other hand, provide a framework of co-operation between public authorities controlling the EEZs and those controlling the fishing fleets. **The coherence of a FA with the principle of responsible fisheries relies on the assumption that all the public institutions involved** (the European Communities, EU Member States and the coastal state), being signatories to the UN Convention on the Law of the Sea and having adhere to the FAO Code of Conduct for Responsible Fisheries, **share the same commitment to managing marine resources in a perspective of long-term sustainability.** To that end, it is assumed that they are ready to co-operate to build and enforce an unbiased institutional and regulatory framework maintaining the competition between fishers within sustainable limits. **If this approach is not verified, the agreement increases the risk of over-fishing without contributing to the better management of the resource.** Assessing the level of commitment of the different stakeholders to sustainable management is therefore necessary. Such co-operation to manage the resource would require among other conditions:

- That available information is shared between all stakeholders;
- That no important strategic decision relating to the exploitation of the EEZ is made without a detailed analysis of all available information;
- That the institutional settings allow for transparent co-operation between the partners;
- That the rules are strictly enforced.

These four criteria will be used to assess whether this critical condition of commitment and co-operation between public partners is verified.

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<sup>65</sup> FAO-CC 6.11 “*States should also ensure that vessels flying their flags fulfil their obligations concerning the collection and provision of data relating to their fishing activities*”.

### 3.8.2.1 *Sharing information*

It is shown in the findings that all field missions, most questionnaires and interviews in Brussels converge to show that the available data are not trusted by the partners and are only reluctantly shared among them. For instance, information routes between the vessels, MS, the EC and coastal states are hard to clarify and vary from case to case; written evaluations of the execution of expiring protocols in view of forthcoming negotiations, if they exist, are not made public; some EU MS carry out scientific programmes in countries with EU FAs but the diffusion of their results is often restricted<sup>66</sup>; coastal states do not seem willing to share with the stakeholders information on the different fisheries arrangements and licences granted.

Therefore, the first criterion is not verified. This lack of transparency between the main public partners involved in the FAs is the first sign that the critical condition of co-operation between public authorities to provide a sustainable framework for the fishing activities is not met. The behaviour of the EU MS and of the EC suggests that these public players show more solidarity with their national fleets in their quest for short-term profitability than longer-term concern with the other partners such as the coastal state. Coastal states themselves show a clear preference for the maximisation of their immediate receipts without trying to develop with their partners any co-operative institutional or regulatory framework adapted to the sustainable management of the resource.

### 3.8.2.2 *Using information*

There is no evidence of the systematic use of any scientific assessment of the “surplus” taken as a basis for the negotiation of the FAs or any of their protocols. For instance, in the Seychelles, the quotas are maintained year after year at the same level whatever the results of the available information. In Mauritania, the EC position about cephalopods<sup>67</sup> does not reflect the precautionary principle that should have been applied by the signatories of the FAO-CC. Figures that are used for negotiating and implementing the FAs, seem to be more the result of a commercial bargain than of scientific studies<sup>68</sup>. Coastal states do not share with the EC representatives information about private licences or agreements signed with third countries. In fact, **the EC representatives agree to negotiate and implement FAs without any guarantee that the overall fishing efforts will be kept at a sustainable level<sup>69</sup>**. Analytical work is difficult in this field but the main point is that **available results are supported or challenged by public partners according to the interest of “their” fleets**, as shown for instance in Section 2, and **this is strong evidence of lack of co-operation**.

<sup>66</sup> FAO-CC 7.4.2 “*Research in support of fishery conservation and management should be promoted... The results of such research should be disseminated to interested parties*”.

<sup>67</sup> See above Section 2.3.3.2

<sup>68</sup> FAO-CC 6.4 “*Conservation and management decisions for fisheries should be based on the best scientific evidence available*”. 6.5 “*...The absence of adequate scientific information should not be used as a reason for postponing or failing to take measures*”.

<sup>69</sup> FAO-CC 6.3 “*States should prevent over-fishing and excess fishing capacity*”.

### 3.8.2.3 Institutions and regulations

So far, the relationship between coastal states and DWF has been extremely opaque. The preparation of recent FAs, notably in Senegal and Mauritania, show that FA's negotiations are increasingly characterised by public visibility. This, *per se*, is an improvement clearly coherent with development objectives, since it increases the likelihood that different sections of the population will take a public stand with regard to the agreement even if, as shown in Senegal, public reactions may hamper the negotiations. However, implementation of the agreements remains totally beyond the reach of the public. Some of the FAs institutional features do not foster co-operation between the partners nor promote more sustainable managerial behaviour but **the most important weakness lies in the fact that, in practice, the coastal state is seen as being very largely responsible for the sustainable management of the natural resource in its EEZ.** This is evidenced by the fact that it is the only authority in charge of the MCS<sup>70</sup>.

This is not consistent with the FAO-CC where flag countries are also explicitly responsible for the behaviour of their fleets and must ensure that international rules and the specific regulations of the EEZ are respected<sup>71</sup>. A recent Commission communication<sup>72</sup> interestingly stresses the need for the flag countries to co-operate with the coastal states to achieve proper enforcement of applicable rules. Indeed, according to the FAO-CC, the right of access to an EEZ brings direct responsibility for the zone's management. **Bearing in mind the high share of subsidies supporting the European fleets, the European authorities, in co-operation with others, have the capacity to play a much more active role in ensuring that at least their own publicly subsidized vessels apply more responsible fishing practices and provide accurate information.**

The definition of regulations also seems to fall, for the most part, under the responsibility of the coastal state, implying some clear inconsistencies but also hampering the building of coherent regional strategies. The concentration of responsibility on the coastal state also fails to consider the technical difficulties of managing highly migratory stocks such as tuna.

**Regional Fisheries Organisations play an increasing role in the regulation of fisheries practices.** The Commission, representing the European Community, is a contracting party to 10 and an observer to 2 others out of 35 existing RFOs. In 1999, the contribution of the EC to all RFOs was €3.7 millions. This Community contribution is financed under the EC budget and seems very limited given the large number of RFOs and their responsibilities. In more general terms, the resources (financial and human), and the political weight of most of the RFOs are far below what could be expected from international institutions bearing the responsibilities outlined above.

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<sup>70</sup> Some regional institutions are in charge of the monitoring but do not carry out any intervention mission.

<sup>71</sup> FAO-CC 6.11 “*States authorizing fishing and fishing support vessels to fly their flags should exercise effective control over those vessels so as to ensure the proper application of this Code*”.

<sup>72</sup> EC (2001), Report on the monitoring of the implementation of the common fisheries policy, Com (2001) 526.

### 3.8.2.4 Enforcing rules

Controlling the respect for the rules implies three different levels of intervention: monitoring (a “technical” competence), control (a “policing” capacity) and sanctioning (a “judicial” capacity). These three levels of intervention require adapted institutions that have to be properly motivated, staffed, equipped and financed to ensure an effective enforcement capacity. Most coastal countries do not meet these conditions as evidenced by numerous cases of long-standing illegal fishing.

**Measures adopted by RFOs become binding after the period of objection has expired and must be incorporated into the Community legal order<sup>73</sup>.** Within this framework, the application of conservation and management measures adopted by the RFOs, once they have been transposed into EC law, is the responsibility of the MS, which are required to apply them in the same way as measures adopted by the EU. For example, the same mechanisms apply to the management of fishing quotas by EU vessels on the high seas and in European waters (collection of catch data, closed seasons, etc.). **The Commission is responsible to ensure that the MS apply the recommendations uniformly and effectively.** However, no direct intervention of the MS, as flag countries, has been recorded<sup>74</sup> but some cases of interventions of the EC delegation or of the MS embassies to defend European vessels sanctioned by the coastal states have been observed. It is not clear whether these interventions have focused on arbitrary decisions of the local authorities or if attempts have been made to mitigate justified sanctions.

Enforcement capacity is necessary to set up an institutional framework, which will effectively control fishing practices. Leaving the whole responsibility with the coastal state will not develop an effective enforcement capacity. **Coastal states not only lack the financial, technical, human and organisational capacities to ensure that service, but they are above all less likely to be committed to a long-term natural resource management approach. Indeed, against a background of poverty and instability, it is logical to seek higher economic discount rates, which means giving higher priority to short-term returns even at the cost of diminishing their long-term income generation capacity.** The current institutional settings are therefore unlikely to lead to effective law enforcement practices, even in the medium- to long-term.

*Question 8. In principle, FAs are meant to grant European fleets access to the “surplus stock” not used by the coastal states. This could be coherent with the responsible fisheries principle. However, the definition of this surplus is generally not based on reliable scientific analysis and the precautionary principle is not applied. Moreover, the practical conditions under which FAs are signed and carried out reveal many violations of the FAO Code of Conduct. Therefore, the current implementation of the FAs cannot be said to be in conformity with the principles of responsible fisheries.*

<sup>73</sup> Recommendations are transposed as Council regulations and published in the Official Journal.

<sup>74</sup> FAO-CC 8.2.7 “Flag states should take enforcement measures in respect of fishing vessels entitled to fly their flag which have been found by them to have contravened applicable conservation and management measures”.



## 4. Conclusions

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Derived from the findings (Section 2) and the analysis (Section 3), the main conclusions from this evaluation are the following:

**C1 Fisheries agreements are not coherent with development objectives if they are not carried out in a context of sustainable fishing practices.**

To be consistent with the objectives of Country Programmes, with the national development policies and with the commitments made by the EU in the framework of the FAO Code of Conduct for Responsible Fisheries, Fisheries Agreements should not contribute to the depletion of the coastal states' marine stocks. This is only possible if they are carried out in areas where all fleets are constrained to implement sustainable fishing practices, under the control of public institutions that are able and willing to ensure sustainable management of stocks and their environment. Indeed, sustainable practices are only effective when applied by all players in a given area.

**C2 Fisheries agreements are not carried out against a background of sustainable fishing practices.**

None of the Fisheries Agreements is carried out under conditions that meet the requirements of the FAO-CC. In principle, Fisheries Agreements are based on the concept of "surplus", which suggests that they provide the framework for sustainable fishing patterns and are not in competition with local fleets. In practice however, the definition of this surplus is not based on scientific assessments of the stocks or on transparent information about the overall (EU and non-EU) fishing effort in the EEZ in question. Fisheries Agreements are, therefore, generally signed without any guarantee that they will be implemented in a context of sustainable fisheries.

**C3 Coastal States and flag countries do not show enough willingness to cooperate to provide and enforce regulatory frameworks and information management systems able to ensure sustainable fishing practices.**

Making a realistic assessment of stocks and effectively monitoring their evolution is a real challenge, technically speaking, notably for highly migratory species such as tuna. However, besides the technical difficulties, the lack of co-operation between public actors (coastal states and flag countries), reluctant to exchange existing information and to take decisions meeting the conditions required by the FAO-CC, is a difficult problem not easily addressed.

**C4 The institutional framework providing the necessary incentives for promoting this co-operation for the sustainable management of marine resources is not yet in place.**

The findings of our evaluation clearly confirm the theory and experience coming from other fields such as agriculture, industry and waste management: poor and unstable countries, like poor individuals living in unpredictable environments, are not ready to give up immediate incomes for the sake of protecting long-term stakes. Letting them bear the main responsibility for sustainability has proved unsuccessful, and therefore, coherence between FAs and development objectives is not ensured. Referring to historical evolutions which led to institutions able to ensure a more sustainable management of increasingly scarce resources, the analysis suggests that the much needed commitment and co-operation of all public stakeholders would be less difficult to obtain would they share the responsibility instead of relying on the weaker of them. The FAO-CC stresses the fact that sound and effective international co-operation is a key element for designing, monitoring and enforcing sustainable fishing practices and recommends enhancing the role of international organizations. RFOs are playing an increasing role in the management of marine resources but their political weight and financial means are still very weak. Also, the support provided by the EC to these institutions is still very limited<sup>75</sup>.

**C5 The way in which FAs compensations are used, show that they currently cover three dimensions very different in nature.**

These dimensions are: a) the price paid for the access granted to the stock, b) the contribution to the costs of the sustainable management of the resource and c) development aid<sup>76</sup>.

**C6 Under the current conditions, FAs and FA-related activities<sup>77</sup> are not sustainable.**

FAs and FA-related activities are not sustainable since in a situation of over-fishing, it is unlikely that all parties will find the renewal of the agreements to be in their best interest for a long period of time. Moreover, the FAs depend on the subsidies policy of the CFP, which is being called into question on both economic (as it is the case in agriculture) and environmental grounds. Indeed, the subsidies allow for the maintenance and even the modernisation of an excessive fishing capacity, which has devastating environmental consequences in the European waters.

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<sup>75</sup> See Section 2.2.2 and Section 3 Question 8.

<sup>76</sup> See Section 2.3.1, Annex 9 and Section 3 Question 2.

<sup>77</sup> Such as natural resource management activities, support to small-scale fisheries and downstream activities like tuna canning.

## 5. Recommendations

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The following **recommendations** are intended to improve the coherence of Fisheries Agreements with Country Programmes and are guided by two key elements: **the need to be selective** and **the need to adapt the institutional framework**. Selectivity is justified by the need for FAs to operate in areas where all public actors are, at least, committed to co-operate for the sake of a sustainable management of the resources. Adapting institutions is justified by the situation of the stocks. When a natural resource is declining, exhausted by decades of destructive exploitation by competing actors, the main challenge is to design a new realistic institutional and economic framework driving these actors to co-operate towards a sustainable management of that resource<sup>78</sup>.

### **R1 EU FAs should be more selective. They should only involve partners ready to co-operate in setting up and enforcing sustainable fishing practices.**

EU FAs cannot contribute to sustainable fisheries and therefore be coherent with development objectives if they involve partners who are not prepared to co-operate in this aim. Therefore, FAs should be signed and protocols renewed only with partners (coastal states, EU MS, shipowners) who comply with internationally approved rules, that is, those laid down in the FAO-CC, and with the specific regulations applied in the EEZ in question. Meeting these regulations requires far more transparency from all parties than is currently provided. Among the behaviour that should exclude partners from further FAs or protocols, it can be mentioned, for instance:

- Coastal states that do not inform the EU about the fishing rights they have granted or intend granting to other fleets;
- EU vessels providing erroneous data, or no data at all, within the allotted time;
- EU MS refusing to sanction the misconduct of their national fleets, as they should do, in line with the CFP and the FAO-CC;
- EU MS refusing to release within a reasonable waiting period, research results that could be necessary for the management of the resource;
- EU MS refusing to forward immediately to the EC and to the coastal state, the data they receive from their national fleets;
- Coastal states not using all the means at their disposal to enforce the fishing regulations by all fishing vessels in their EEZ, whatever their origin.

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<sup>78</sup> See Section 3. 8, Box 8.

All these modes of behaviour have been presented in the above findings, identified in the country missions and through the questionnaires<sup>79</sup>. Their consequences have been analysed in Section 3, notably under Question 8.

## **R2 The institutional framework should explicitly reflect the three main dimensions currently covered by the fisheries agreements.**

The three dimensions (namely, access to the resource, sustainable management of marine resources and development activities) should not be mixed in the same negotiation or be managed by the same institutions.

### ***R2.1 A Fisheries Agreement should exclusively define the conditions under which EU vessels can access the coastal state's EEZ.***

#### **R2.1.a**

##### **Rent should be paid by shipowners to the coastal state to access resources.**

This rent<sup>80</sup> should be fully financed by the shipowners themselves. Indeed, dedicating public money to subsidize the rent increases the risk of over-fishing. Each coastal state should still be allowed to negotiate freely with the partners of its choice but within a total sustainable catch agreed with the regional institution. The coastal countries have to share with this institution all information about the fishing efforts they grant in their EEZ. However, the level of the rent may remain confidential.

#### **R2.1.b**

##### **More responsive forms of agreements relating compensation payments directly to market prices and actual catches should be designed.**

Currently, flat compensation payments for access may, like allowable catches, last for six or seven years, regardless of conditions in nature and market prices, which more often than not rise over time. As a result, the legitimate compensation owed to the coastal state is underestimated and sustainability endangered. Both consequences are harmful to the country's development objectives.

The evaluations mentioned in R2.2.c, as well as new stock assessments, should be referred to each time the protocols are renewed. In many cases, the duration of some aspects of these protocols should be shortened in order to allow for a more frequent adaptation to the life cycles of some of the species (e.g. cephalopods).

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<sup>79</sup> See Annexes 10 to 14.

<sup>80</sup> Or price to access the resource.

***R2.2 International institutions involved in the sustainable management of marine resources should play a more important role.***

**R2.2.a**

**The contribution to MCS and to other aspects of resource assessment and management should be viewed as a tax, the total of which will be assessed according to the actual costs of such a management system.**

This amount should be shared between shipowners on the basis of their vessels' fishing capacity and the duration of their fishing campaigns. However, the protection of marine life can be seen as a public good, the maintenance of which rich countries should also bear the cost. Therefore, it makes sense to ask the European taxpayer to finance part of these costs. Ideally, this contribution should not be paid directly to the coastal states but rather to regional institutions, in which the EC must have a say as a Board member. These institutions would then be free to delegate some of their tasks to the coastal states while providing the means to implement them, while other tasks could be subcontracted to specialized international bodies.

**R2.2.b**

**The EC should increase its support to international institutions involved in the sustainable management of marine resources.**

Conclusion C4 suggests that powerful and well-equipped multilateral bodies involving not only the coastal states of the region but also the flag countries and, more in general, countries willing to contribute to a better management of the marine environment, would provide a more effective framework to ensure sustainable fishing practices. These multilateral institutions should be given the widest possible responsibilities in order to fulfil their tasks. These institutions would be more independent than the coastal states when defining annual sustainable catches for each EEZ. They would also be in a better position to ensure consistent decisions between neighbouring countries, notably regarding migratory stocks.

RFOs are an important step in this direction. Some of them are already mandated to assume these responsibilities. However, they lack the means and the political power to play their role. The EU should support the involvement of regional or international bodies in the establishment of sustainable levels of catches, in co-operation with the coastal states. A detailed evaluation of the mandate and the effectiveness of the main RFOs could help design the next institutional steps towards a clearer definition of international responsibility vis-à-vis marine life and especially fish stocks and of the means needed to play its role. For this reason, the EC financial and technical support to the RFOs should be increased. The nature of this support and therefore the source of the necessary funds are suggested above in R2.2.a.

### **R2.2.c**

**Each FA or protocol should have a detailed technical annex explaining how the scientific basis on which the surplus allocated to EU vessels has been assessed and how the fishing activities will be monitored and evaluated.**

This technical annex should be part of the official text and be approved by all the parties. The implementation of FAs should be assessed regularly by independent experts and the results of these assessments made available on a public website. Improved transparency is a prerequisite for improved resource management. To be coherent with development objectives, EU FAs should become exemplary from that point of view.

### **R2.2.d**

**There should be more transparent and standardised catch reporting by EU DWF vessels so that the same information is shared simultaneously by the MS, the EC, the coastal state and the corresponding RFO.**

The data should be presented in an appropriate format for use by the coastal states and RFOs whose technical capacity is limited. Their interpretation should be facilitated through the provision of equipment and capacity building interventions that could be financed in the frame of Country or Regional Programmes with the support of European specialised institutions.

## ***R2.3 Development interventions should be carried out only in the context of a Country Programme and financed with development funds.***

### **R2.3.a**

**The contribution to development programmes, in fisheries as in any other sector, should be drawn from European aid resources such as EDF and included in the Country Programmes.**

The amounts released should depend on the needs and priorities identified in the CPs. They are, by nature, financed by the European taxpayer and should bear no relation to the terms of the FA.

### **R2.3.b**

**Country and Regional Programmes should finance the design and implementation of sector-wide strategies for the fisheries sector in countries or regions where fisheries contribute significantly to the overall wealth and/or to the livelihood of certain vulnerable groups.**

This could help the coastal state to work out for themselves, and to give third parties, a clearer view of: a) the way they intend to use fisheries resource, including the benefits they expect from foreign DWF, in the framework of a sustainable long-term strategy; b) the way they intend to manage the resource in co-operation with RFOs and other stakeholders and c) the support they need for doing so.

**R2.3.c**

**The impact of FAs on vulnerable groups should be assessed during the FA evaluations mentioned in R2.2.c.**

If any negative impact is identified, it should be addressed on a co-ordinated basis by the EC services responsible for development and fisheries.

**R3 FA-related activities<sup>81</sup> are not sustainable and should not be promoted**

FAs do not provide reliable foundations on which local economic activities can safely be based<sup>82</sup>. Activities that are funded by the FAs or depend on compulsory local landings, such as processing and canning plants, are unsustainable. Therefore, this form of dependency should not be promoted in future, as it is not in line with development objectives.

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<sup>81</sup> Such as natural resource management activities, support to small-scale fisheries and downstream activities like tuna canning.

<sup>82</sup> See Section 3.7.1 and Section 4 Conclusion 5.